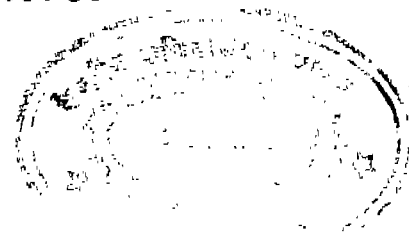




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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on 3.12.1999.

BILL NO. 74 OF 1999

A Bill to provide for the appointment of a Commission to oversee the administration of the secretarial staff of the House of the People and for matters connected therewith.

BE it enacted by Parliament in the Fiftieth Year of the Republic of India as follows:—

1. This Act may be called the House of the People (Administration) Act, 1999. Short title.
2. In this Act, unless the context otherwise requires,— Definitions.
 - (a) "Commission" means the House of the People Commission constituted under section 3 of this Act;
 - (b) "House" means the House of the People;
 - (c) "Leader of the House" means the Prime Minister or a member of the Council of Ministers, who, being a member of the House, may be nominated by the Prime Minister for the purposes of this Act;
 - (d) "Leader of the Opposition" means a member of the House who is recognised by the Speaker as such or his nominee, who shall be a member of the House, and if there is no such leader, then the leader of the party in the Opposition having the largest number of members in the House;
 - (e) "Secretarial Staff" means the staff of the House of the People;
 - (f) "Secretariat" means the Secretariat of the House of the People; and
 - (g) "Speaker" means Speaker of the House of the People.

Constitution and
Composition of
the Commission.

3. (1) There shall be constituted a Commission to be known as the House of the People Commission to perform the functions conferred on it by this Act.

(2) The Commission shall be appointed by the House on a motion to be moved by the Leader of the House and adopted by the House.

(3) The Commission shall consist of the following:—

(a) the Speaker;

(b) the Deputy Speaker of the House;

(c) the Leader of the House;

(d) the Leader of the Opposition; and

(e) three members of the House to be elected by the system of proportional representation by means of a single transferable vote.

Time upto which
Speaker and
Leader of the
House continue
as Members of
Commission.

4. The Speaker and the Leader of the House shall continue to be the members of the Commission until immediately before the assumption of the office by their respective successors.

Cessation of
membership of
the Commission.

5. A member of the Commission other than the Speaker and the Leader of the House shall cease to be a member of the Commission if he ceases to be a member of the House.

6. (1) The Speaker shall be the *ex-officio* Chairman of the Commission.

Chairman of the
Commission.

(2) While the office of the Speaker is vacant, the Deputy Speaker of the House shall function as the Chairman of the Commission and, if for any reason, the Speaker is unable to act as the Chairman of the Commission, the Deputy Speaker shall act as the Chairman of the Commission.

Appointment of
Secretary-Gen-
eral.

7. (1) There shall be a Secretary-General of the House who shall be appointed by the President of India on the recommendation of the Commission.

(2) The Secretary-General shall be appointed from amongst those who have distinguished themselves and made their mark in the service of the House in various capacities in the Secretariat for not less than twenty years.

(3) The Secretary-General shall be the head of the Secretariat.

Vacation and res-
ignation of, and
removal from,
the office of Sec-
retary-General.

8. The office of the Secretary-General shall become vacant—

(a) on his attaining the age of superannuation, as may be fixed by the Commission;

(b) on his resignation in writing addressed to the President of India; and

(c) on his removal from office by the President of India in the same manner as is provided for the removal of a Judge of the Supreme Court under clause (4) of article 124 of the Constitution.

Functions of the
Commission.

9. Save as otherwise provided in this Act, the functions of the Commission shall include the following:—

(a) to frame rules regulating the recruitment, appointment, promotion and other service conditions of the Secretary-General and officers and staff of the Secretariat;

(b) to adopt such service rules of the Government of India as it may deem fit;

(c) to appoint officers and staff of the Secretariat;

(d) to appoint officers and staff on deputation to posts in the Secretariat from

other services such as Judicial services or from office of the Comptroller and Auditor General or from State Legislatures;

(e) to determine the strength of the secretarial staff at various levels and their pay scales and other allowances;

(f) to ensure that the classification, grading, salaries, allowances and other conditions of service, including pension and other benefits, of the personnel in the Secretariat are kept generally in conformity with those of the personnel in other comparable services in the Government of India and also consistent with the service requirements of the House;

(g) to consider and decide appeals against the orders of the Speaker or Secretary-General, as the case may be, submitted by the officers and staff of the Secretariat;

(h) to prepare an estimate for each financial year of the expenses of the services of the House and of any other expenses incurred for the service of the House and lay them before the House;

(i) to appoint a member of the secretarial staff as "Finance Officer" who will be responsible for accounting for the sums paid out of money provided by Parliament for the service of the House; and

(j) to exercise all powers necessary to implement the provisions of clause (1) of article 98 of the Constitution of India towards the constitution of a separate, independent and autonomous Secretariat of the House.

10. (1) The Commission may delegate to the Speaker or Secretary-General any of its functions under this Act.

Delegation of functions of the Commission.

(2) Anything done by or in relation to a person, to whom functions are delegated under this section, in the discharge of functions of the Commission, shall have the same effect as if it were done by or in relation to the Commission.

(3) Any delegation of functions made by the Commission under this section or any amendment or revocation of such delegation shall be mentioned in the annual report of the Commission made under section 12.

(4) Notwithstanding anything contained in this section, the Commission shall retain the ultimate responsibility for considering any representation made, in relation to matters affecting the interests, in connection with the employment of the secretarial staff, by staff associations who are recognised by the Commission in respect of such staff, and for the conduct of consultations and negotiations, about such matters with those staff associations.

11. The validity of any proceedings of the Commission shall not be affected by any vacancy among the members of the Commission, or by any defect in the appointment or nomination of any members of the Commission.

Validity of the proceedings of the Commission.

12. The Commission shall as soon as possible, after the end of every financial year, prepare, print and present to the House a report on the exercise of its functions in that year.

Annual Report of the Commission.

13. (1) The Commission may make rules to regulate its procedure and conduct of its business.

Power to make rules.

(2) The Commission may, by notification in the official Gazette, make rules to regulate recruitment and conditions of service of the secretarial staff.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the House, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, the House agrees in making any modification in the rule, or the House agrees that the rule

should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be.

(4) Any notice of amendment to such rules given by a member shall stand referred to the Commission which shall consider it and make such changes in the rules as the Commission may consider fit.

(5) The final rule made by the Commission after taking into consideration the amendments suggested by the members shall be laid before the House and, thereafter, on the House agreeing to the final rule on a motion made by a member of the Commission, the rule or amendment to a rule, as the case may be, shall be promulgated by the Commission by notification in the official Gazette.

Transitional
provisions.

14. All persons employed in the secretarial staff immediately before the coming into force of this Act, shall be treated, for all purposes, as if their appointment had been made by the Commission.

Saving.

15. All rules, regulations and orders made and in force immediately before the coming into force of this Act, shall be deemed to have been made by the Commission and shall continue to be valid and operative unless modified or revoked by the Commission; so, however, anything contained therein being inconsistent with any provisions of this Act, shall be of no effect and be void to the extent of such inconsistency.

STATEMENT OF OBJECTS AND REASONS

The concept of an independent Secretariat of Parliament is an essential adjunct of Parliamentary democracy. The significance of this conceptualisation of a Secretariat independent of the Executive was fully realised in the 1920s when the then Central Legislative Assembly passed unanimously a resolution moved by Pandit Motilal Nehru and seconded by Lala Lajpat Rai. Later, Vithalbhai Patel ceaselessly endeavoured in this direction.

The independent position of the Secretariats of the Houses of Parliament was recognised by the makers of our Constitution when they considered it necessary to incorporate a separate and exclusive article (article 98) in the Constitution. This article envisages enactment by Parliament of a law to regulate the recruitment and conditions of service of persons appointed to the secretarial staff of the House. The enactment of such a legislation is long overdue.

The unique position of the Lok Sabha Secretariat demands, as it does, a special sense of dedication and impartiality from the secretarial staff in the discharge of their duties and requires a broad-based institutional arrangement representing the House to be statutorily made available to assist the Speaker in watching and safeguarding the interests of the secretarial staff in the service of the House and its members. This institutional arrangement is sought to be made by providing a House of the People Commission.

Hence this Bill.

NEW DELHI;
October 20, 1999.

G. M. BANATWALLA.

FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to provide for the constitution of a House of the People Commission. Its members are the members of the House of the People who would be discharging their duties in relation to the Commission as its members. The expenditure towards the payment of their TA/DA, if any, would be a part of the normal expenditure of the House. The increase in the expenditure, if any, as a result of constituting the Commission would be a marginal one that would not be possible to be quantified in specific terms at this stage.

BILL NO. 85 OF 1999

A Bill to provide the Indian citizens living abroad with the right to vote in elections to the House of the People and the Legislative Assemblies of the States.

BE it enacted by Parliament in the Fiftieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian citizens Abroad (Voting Right at Elections) Act, 1999.

Short title and
commence-
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires, "Indian citizen living abroad" means an Indian citizen temporarily staying abroad for any work or for pursuing any avocation.

Definition.

Right to vote to
Indian citizens
living abroad.

3. Notwithstanding anything contained in any other law for the time being in force, an Indian citizen living abroad shall have the right to vote in any election to the House of the People and the Legislative Assemblies of the States.

Creation of
election
machinery

4. The Election Commission of India shall make provision for and create an adequate machinery to enable Indian citizens living abroad to exercise their franchise in every election to the House of the People and the Legislative Assemblies of the States.

Diplomatic
and consular
officers to
assist Election
Commission
of India.

5. All diplomatic and consular officers of the Government of India shall act in aid of the Election Commission of India in the discharge of its functions under section 4.

Power to make
rules

6. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

A large number of Indian citizens stay abroad temporarily for any work or for pursuing any vocation. They not only make a decent living for themselves but also contribute much for the well-being of the country. They are, however, deprived of the right to vote in elections as the law allows only the ordinarily resident citizens to register themselves as voter. No machinery exists to allow the Indian citizens working abroad to exercise their franchise.

Hence this Bill.

NEW DELHI;
October 20, 1999.

G.M. BANATWALLA.

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the creation of machinery to enable Indian citizens living abroad to vote in the elections held in India from time to time. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees two lakhs per annum from the Consolidated Fund of India. It is also likely to involve a non-recurring expenditure of about rupees fifty thousand.

BILL No. 108 OF 1999

A Bill to provide for adequate reservation in posts and services under the Central Government and its public sector undertakings and in higher educational institutions for the Scheduled Castes, the Scheduled Tribes, other backward classes and backward minorities and for matters connected therewith.

BE it enacted by Parliament in the Fiftieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Reservation (Services and Higher Education) Act, 1999.

(2) It extends to the whole of India.

(3) It shall come into force at once.

Short title,
extent and
Commence-
ment.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appointing authority" means the authority empowered to make appointment to a service or a post in the Central Government or its undertaking;

(b) "backward minorities" means and includes persons belonging to Muslim, Christian and Sikh minorities and such other groups or communities as may be recognised by the Central Government or State Government as backward minorities by notification in the Official Gazette;

(c) "Government establishment" means any office of the Central Government, public sector undertaking or statutory authority established under an Act of Parliament or a Corporation, an institution, an organisation or a society, engaged in any activities, fifty-one per cent. of whose capital or recurring expenditure is contributed directly or indirectly by the Central Government and shall include universities, affiliated colleges and educational institutions owned or aided by the Central Government;

(d) "higher education" means education at a level higher than the secondary level and shall include professional and technical training;

(e) "Other Backward Classes" means other castes, classes or such groups of persons as may be recognised as other backward classes by the Central Government by notification in the Official Gazette;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "recruitment year" means the calendar year during which recruitment is made;

(h) "Scheduled Castes" means the castes specified in the Constitution (Scheduled Castes) Order, 1950 made by the President of India under article 341 of the Constitution of India and as amended from time to time;

(i) "Scheduled Tribes" means the tribes specified in the Constitution (Scheduled Tribes) Order, 1950 made by the President of India under article 342 of the Constitution of India and as amended from time to time.

Reservation in posts and services.

3. (1) Notwithstanding anything contained in any other law for the time being in force, Central Government shall reserve or cause to be reserved vacancies in posts and services in Government establishments for persons belonging to the Scheduled Castes, the Scheduled Tribes, Other Backward Classes and for each of the backward minorities.

(2) The reservation for the persons belonging to the Scheduled Castes, the Scheduled Tribes and Other Backward Classes shall be in the same manner as is being reserved by the Central Government immediately before the commencement of this Act.

(3) While reserving the vacancies under sub-section (1), the Central Government shall, as far as practical, adhere to the percentage of the persons belonging to the Scheduled Castes, the Scheduled Tribes, Other Backward Classes and each of the backward minorities, as the case may, is to the total population as recorded in the latest census.

(4) The vacancies reserved under this Act shall not filled up by candidates other than those for whom they have been reserved unless otherwise prescribed in order to deal with any situation of non-availability of candidates to fill up the vacancies reserved for the various categories.

Explanation.— For the purpose of this Act, reservation shall include reservation in promotion.

4. (1) Notwithstanding anything contained in any other law for the time being in force and subject to the rights of the educational institutions of minorities pursuant to article 30 of the Constitution of India, there shall be reservation of seats in higher educational institutions for students belonging to the Scheduled Castes, the Scheduled Tribes, Other Backward Classes and for each of the backward minorities.

Reservation in higher educational institutions.

(2) The provisions of section 3 shall, as far as practical, apply to reservation of seats in higher educational institutions.

5. In the matter of recruitment to reserved vacancies,—

Relaxations in recruitment.

(a) the upper age limit prescribed for recruitment shall be relaxed by as many years as may be prescribed;

(b) no fee be charged for competitive examination; and

(c) candidates shall be paid prescribed travelling allowance for appearing in competitive examination or interviews thereof conducted by the Public Service Commission, Staff Selection Board/ Commission or such other agency under the control of Central Government.

6. (1) **There shall be appointed a Special Officer for Reservation who shall be appointed by the President.**

Special Officer for Reservations.

(2) It shall be the duty of the Special Officer for Reservations to investigate all matters relating to reservations under this Act and report to the President upon the working and implementation of the Act at such intervals as the President may direct and the President shall cause all such reports to be laid before each House of Parliament.

7. Every appointing authority of Government establishments and every authority that admits students in higher education institutions shall furnish to the Special Officer for Reservations appointed under section 6, the Chairman of the National Commission for the Scheduled Castes and the Scheduled Tribes and the Chairman of the National Commission for the Minorities, an annual report in the prescribed manner and within the prescribed period, on appointments/admissions made under this Act and maintain such other records as may be prescribed.

Annual report.

8. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

The Bill seeks not only to codify the present policy of reservations available to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes but also to extend reservation in posts and services and in higher educational institutions to persons belonging to the backward minorities. The prevalent condition and the continuous declining trend in the position of the minorities is appalling. The facts and the figures presented by the report of the High Power Panel on Minorities constituted by Government of India irresistibly demand reservation for minorities in posts and services and in admission in higher educational institutions. Only then can the imperatives of social justice be met to usher in an equitable society.

Hence this Bill.

NEW DELHI;
October 20, 1999.

G.M. BANATWALLA.

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides for the establishment of the office of a Special Officer for Reservations. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of twenty-five lakh per annum.

It is also likely to involve a non-recurring expenditure of about rupees ten lakh.

BILL NO. 75 OF 1999

A Bill to provide for withdrawal and prevention of all legal proceedings under the Terrorist and Disruptive Activities (Prevention) Act, 1987 which expired on 23 May, 1995 and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fiftieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Terrorist and Disruptive Activities (Prevention) (Withdrawal of Legal Proceedings) Act, 1999.

Short title and commencement.

(2) It shall come into force at once.

28 of 1987

2. Notwithstanding anything contained in the Terrorist and Disruptive Activities (Prevention) Act, 1987, (hereinafter referred to as the principal Act),—

Withdrawal and prevention of legal proceedings.

(a) all investigations and legal proceedings pending or continuing and all orders made under such pending or continuing proceedings in accordance with the provisions of the principal Act shall be deemed to have lapsed or abated or been withdrawn on the date of coming into force of this Act;

(b) no investigation, prosecution or legal proceeding, whether pertaining to the previous operation of the principal Act or otherwise shall be instituted on or after the date of commencement of this Act; and

(c) all the accused facing prosecution and legal proceedings under the principal Act shall stand discharged on the date of commencement of this Act.

3. All designated courts constituted under the principal Act shall be deemed to have been abolished and such courts shall cease to function on and from the date of commencement of this Act.

Abolition of designated courts.

4. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other enactment or in any instrument having effect by virtue of any other enactment.

Act to have over-riding effect.

STATEMENT OF OBJECTS AND REASONS

Abolition of
designated
courts.

Act to have
over-riding
effect.

The Terrorist and Disruptive Activities (Prevention) Act, 1987 lapsed on 23rd May, 1995. The Act had been widely criticised as violative of all democratic and legal norms. There was gross misuse and abuse of the Act leading to limitless sufferings of a large number of people.

Though the obnoxious Act has lapsed, still thousands of legal proceedings continue and a large number of persons, languish under detention. This situation, pursuant to subsection (4) of section 1 of the undemocratic TADA Act, is a serious anachronism and a source of great suffering to the victims.

The Bill seeks to provide for the withdrawal of all legal proceedings under the draconian Act.

NEW DELHI;
October 20, 1999.

G.M. BANATWALLA.

BILL NO. 81 OF 1999

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fiftieth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1999.

Short title.

2. After article 75 of the Constitution, the following article shall be inserted, namely:—

Insertion of
new article
75A.

“75A. Notwithstanding anything contained in articles 74 and 75—

Provisions as to
confidence in
the Council of
Ministers.

(1) The House of the People shall express its lack of confidence in the Prime Minister and his Council of Ministers only by electing his successor through a composite motion supported by a majority of the total members of the House and presenting an address to that effect to the President, who shall then appoint the person so elected as the new Prime Minister.

(2) In the event of failure of the Council of Ministers to secure, or retain the confidence of the House of the People, and if the House is not able to elect a person to be appointed as the new Prime Minister in accordance with the provisions laid down in clause (1), the President shall, upon the advice of the Council of Ministers, dissolve the House of the People within ten days, unless the House elects another person to be appointed as Prime Minister within this period.”.

Amendment of
article 85.

3. In article 85 of the Constitution, in clause (2), the following proviso shall be added at the end, namely:—

"Provided that the power under sub-clause (b) of clause (2) shall be exercised subject to the provision of article 75A."

Insertion of
new article
164A.

4. After article 164 of the Constitution, the following article shall be inserted, namely:—

Provisions as to
confidence in
the Council of
Ministers.

"164A. Notwithstanding anything contained in articles 163 and 164—

(1) The Legislative Assembly shall express its lack of confidence in the Chief Minister and his Council of Ministers only by electing his successor through a composite motion supported by a majority of the total members of the Assembly and presenting an address to that effect to the Governor, who shall then appoint the person so elected as the new Chief Minister.

(2) In the event of failure of the Council of Ministers to secure, or retain the confidence of the Legislative Assembly, and if the Assembly is not able to elect a person to be appointed as the new Chief Minister in accordance with the provisions laid down in clause (1), the Governor shall, upon the advice of the Council of Ministers, dissolve the Legislative Assembly within ten days, unless the Assembly elects another person to be appointed as Chief Minister within this period."

Amendment of
article 174.

5. In article 174 of the Constitution, in clause (2), the following proviso shall be added at the end, namely:—

"Provided that the power under sub-clause (b) of clause (2) shall be exercised subject to the provisions of article 164A."

STATEMENT OF OBJECTS AND REASONS

The Indian political system has come under increasing stress due to fractured polity and multiplicity of political parties. During the last five General Elections since 1989, no single political party could secure majority in the House of the People. This period was marked by a succession of seven coalition or minority Governments resulting in frequent elections. This had a destabilising effect on the national psyche and our socio-economic system. A question mark has also arisen on the credibility of the present constitutional framework.

2. The Government has already decided to constitute a panel to review the Constitution to cope with emerging trends in Indian polity. A new dispensation is needed to impart stability to our polity.

3. Even within the existing constitutional framework, a provision is needed to assign a direct and effective role to the House of the People and the Legislative Assemblies for electing an alternative Government when the Council of Ministers fails to secure, or retain the confidence of the House/Assembly. Such a provision will accord priority and activate the role of the House of the People and the Legislative Assembly and eliminate the vice of backroom political manoeuvres. Moreover, in that case, the dissolution of the House/Assembly shall become the last resort, and occur only when there is an insuperable Constitutional impasse.

4. This Bill seeks to achieve the above objectives by insertion of two new articles 75A and 164A in the Constitution.

NEW DELHI;
October 21, 1999.

KIRIT SOMAIYA.

BILL No. 80 OF 1999

A Bill to provide for empowerment of women in all fields and for matters connected therewith.

CHAPTER I

PRELIMINARY

BE it enacted by Parliament in the Fiftieth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the Empowerment of Women Act, 1999.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise provides,—

(a) “appropriate Government” means the State Government in relation to a State and the Central Government in other cases;

(b) “bank” means the Women Development Bank established under section 27;

(c) “child” means a person who has not attained the age of fourteen years;

(d) “court” means a special court established under section 45;

(e) "destitute woman" means a woman who has been separated, divorced or a widow or an unmarried woman who has no source of income;

(f) "employer" means:

(i) in relation to an establishment which is under the control of the appropriate Government, a person or an authority appointed by the appropriate Government, for the supervision and control of employees or where no person is so appointed, the head of the department;

(ii) in relation to an establishment under any local authority, the person appointed by such authority for the supervision and control of employees or where no person is so appointed, the chief executive officer of the local authority;

(iii) in any other case, the person who, or the authority which has the ultimate control on the affairs of the establishment or entrusted to any other person whether called a Manager, Managing Director, Managing Agent, Supervisor or by any other name who has been entrusted with the affairs of the establishment, such person;

(g) "establishment" includes:—

(i) a factory;

(ii) a mine;

(iii) a plantation;

(iv) an agricultural field;

(v) an establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other performances;

(vi) a place where, manufacture, production, or such other similar activity is carried out;

(vii) a place where trading either wholesale or retail in any product is carried out;

(viii) a hotel, restaurant, lodge or any eating place;

(ix) a shop where sale in any product is carried out or a service is provided;

(x) a place where construction work is carried out;

(h) "prescribed" means prescribed by rules made under this Act;

(i) "property" means movable and immovable property and includes all rights pertaining to property by way of lease, licence and inheritance.

CHAPTER II

EDUCATIONAL RIGHTS

3. The appropriate Government shall,—

(a) provide free and compulsory education upto graduation level to all women;

(b) open adequate number of educational institutions exclusively for women;

(c) reserve fifty per cent. of seats in educational institutions for women till adequate number of educational institutions exclusive to them have been set up; and

(d) provide scholarships to women for pursuing higher education.

Explanation.—In this section, 'free education' means uniform, books and stationery, nutritious meals during school hours and transportation free of cost and no fees for admission or for taking any examination shall be charged.

4. The appropriate Government shall provide vocational training to all girl students.

Free education to women.

Free vocational training to Girl Students.

CHAPTER III

EMPLOYMENT RIGHTS

Reservation of posts in Government Services.

5. The Central Government shall reserve thirty per cent. of posts and appointments under its control for women.

Working Women Welfare Fund.

6. (1) The Central Government shall constitute a Fund to be called Working Women Welfare Fund for carrying out the following purposes:—

- (i) to ensure the right to work for women;
- (ii) to ensure equal wages to women employees;
- (iii) to ensure steady and definite increase of the women employees in the total work force;
- (iv) to ensure after suitable amendments, proper application of the existing labour laws for the benefit of the women employees;
- (v) to ensure child care facilities for the women employees with minimum needs like milk, tiffin, clothes, toys and trained *ayahs* to look after the children;
- (vi) to ensure mobile child care facilities for agricultural women employees;
- (vii) to ensure retiring rooms with adequate facilities like bathrooms, latrines, etc. at the work-site for the women employees;
- (viii) to ensure residential facilities for women employees nearest to the place of their work;
- (ix) to ensure recreational facilities for the kids of the women employees at the child care centres;
- (x) to ensure proper and adequate security arrangement for the women employees at the work site as well as to and from their residential places;
- (xi) to ensure improved and conducive working conditions for the women employees;
- (xii) to ensure reservation of beds in the hospitals for women employees;
- (xiii) to ensure proper and adequate maternity facilities for the women employees;
- (xiv) to ensure equality for married and unmarried women employees in the employment as well as in service conditions and wages;
- (xv) to ensure cheap, safe and quick transportation facilities for women employees;
- (xvi) to ensure protection from health hazards, particularly for the women employees working in industries like cashew, mines, tobacco, construction projects, etc.

(2) Every employer and State Government shall contribute to the fund in such ratio as may be fixed by the Central Government.

Representation of women employees in trade unions.

7. The appropriate Government shall ensure representation of women employees in various committees of trade unions formed for the purposes of working class.

Constitution of Advisory Committees.

8. (1) The Central Government shall constitute Advisory Committee in every State and Union territory in respect of the area at the city level, district level and an apex body at State level, consisting of equal number of representatives from the appropriate Government, the employees and the trade unions, who shall be women, to

advise the Central Government on such matters arising out of the administration of this Act may be referred to it by the Central Government including matters relating to the application of the Fund.

(2) The members of the committees so constituted shall from amongst themselves elect the Chairmen of the committees.

(3) The Central Government shall publish the names of the members of all Advisory committees in the Official Gazette.

9. The Central Government shall constitute a Central Advisory Committee which shall coordinate the functioning of all the Advisory Committees for their proper functioning and for the adoption of uniform policies.

Central Advisory Committee.

10. The appropriate Government may, by notification in the Official Gazette, appoint as many officers as it may deem necessary for the proper enforcement of the provisions of this Act.

Appointment of Officers.

11. The Advisory Committee at the district level shall maintain a register of women employees in its area and the information contained therein shall be checked with the information supplied by each employer regarding women employed by them and their specific needs, if any.

Register of women employees.

12. Each Advisory Committee shall, as soon as may be, after the end of each financial year, prepare a comprehensive report of its activities of the previous year, which were financed from the Fund, together with a statement of accounts.

Annual Report of Advisory Committees.

13. The appropriate Government may require an employer, who employs women in his industry or establishment, to furnish for the purposes of this Act, such statistical and other information, in such form and within such period as may be prescribed.

Employer to furnish information in respect of women employees.

CHAPTER IV

SEXUAL HARASSMENT

14. For the purposes of this Act, 'sexual harassment' means and includes—

Meaning of Sexual harassment.

(i) harassing any employee by virtue of her being a female;

(ii) indecent representation of women with a view to annoy or irritate her and which results in mental injury of a female employee;

(iii) detaining a female employee before or after normal working hours in the absence of other employees and where there is no work to be performed by that female employee, with a view to outrage her modesty or molest her;

(iv) paying less wages, or giving of work more than required of her, to a female employee, than her male counterpart;

(v) refusing to grant leave of absence to a female employee or permission to her during her pregnancy/termination of pregnancy or other periods when she would not be physically or biologically fit to perform her work to her fullest capacity;

(vi) passing of obscene or lewd comments against a female employee or in her presence;

(vii) making a female employee attend office on holidays or come to such place where her presence is not required in connection with her employment;

(viii) compelling a female employee to attend a party/dance or any musical programme or to dine with her employer or any other person if the female employee is not willing to do so;

(ix) refusal to allow rest to female employee as provided under the provisions of any other law for the time being in force;

- (x) making her dress in a way which would present her in an obscene manner;
- (xi) making her perform such a job or duty which would denigrate her personality;
- (xii) touching or otherwise fondling or flirting bodily of a female employee in the guise of teaching her the job or help her in her job;
- (xiii) making her perform such duties which she cannot with her physical condition would be able to perform;
- (xiv) gestures or actions either by word or by written material intending to insult or cause mental injury to a female employee;
- (xv) showing pornography or other obscene literature to a female employee;
- (xvi) sexual advances with a view to assault or molest or outrage modesty of a female employee;
- (xvii) offering unwanted suggestions or advice about physical appearance or on other matters of a female employee with a view to hurt her; and
- (xviii) doing of any other act or causing any act by using position as an employer with a view to exploiting a female employee.

Special officer to deal with cases in the Government offices.

15. (1) The Central Government shall designate an officer, who shall be a woman, as it may deem fit, to be the Special Officer in every department, or office or an establishment under its jurisdiction to deal with cases arising out of this Act.

(2) The Special Officer so designated under sub-section (1) shall deal with complaints lodged by female employees in her department or office or establishment.

Special Officer for every district.

16. The appropriate Government shall appoint a Special Officer, who shall be a woman, for every district to deal with cases arising out of provisions of this Act within the jurisdiction of that district.

Women employees not to be harassed.

17. No person being an employer or manager or supervisor in charge of the office/organisation or a factory or establishment or any other work place or any other employee or any other person shall indulge or caused to be indulged in sexual harassment of women employees.

Women employees to approach Special Officer in case of harassment.

18. If any female employee has been subject to sexual harassment, she may approach the concerned Special Officer for redressal of her grievances.

Special Officer to make inquiries.

19. As soon as a complaint has been lodged with the Special Officer, she shall make or caused to be made an inquiry into the facts and circumstances of the complaint.

Special Officer to recommend action against guilty.

20. If after inquiry, the Special Officer finds any person guilty of sexual harassment she shall—

(a) in case the guilty is an employee of the Government, recommend to the appropriate authority for taking such disciplinary action as she may deem fit;

(b) in case the guilty is not employed in Government service, recommend to the employer or other person in charge of the affairs of the organisation where the accused is employed, such action as she may deem fit;

Provided that if it is brought to the notice of the Special Officer that no action has been taken by the employer or the person in charge of the affairs of the organisation where the accused is employed—

(i) in case it is an office or establishment under the control of the Central Government, the Central Government shall terminate the services of both the accused person and the person in charge of the office where the victim is employed;

(ii) in case the work place where the victim is employed is not under the control of the Central Government, the facilities and concessions extended to that organisation by the Central Government shall be withdrawn forthwith.

21. A Special Officer while discharging her functions under the provisions of this Act shall have the powers of a Civil Court and the proceedings thereof shall be in accordance with the Code of Civil Procedure, 1908.

Special Officer to have powers of a Civil Court.

22. Any person who violates the provisions of this chapter shall be punished with imprisonment for a period of not less than seven years and with fine not less than fifty thousand rupees and shall be disqualified from joining the Government service.

Punishment.

CHAPTER V

SOCIAL SECURITY RIGHTS

23. The appropriate Government shall provide a pension at the rate of rupees one thousand and five hundred per mensem, to be revised from time to time, to all destitute women till they are gainfully employed or facilities for self-employment have been created for them or accommodated in women's homes whichever is the earliest.

Provision of pension to destitute women.

24. (1) The appropriate Government shall establish women's homes in every district for accommodating destitute women.

Women's home.

(2) In every women's home:—

- (i) medical care, food and clothes shall be supplied free of cost to the inmates;
- (ii) recreational facilities shall be made available; and
- (iii) necessary facilities for self employment shall be made available.

25. (1) The Central Government shall frame and administer an Insurance Scheme for all women.

Insurance Scheme for women.

(2) The Insurance Scheme so administered shall cater to housewives, working women and self employed women in both organised and unorganised sectors.

(3) The Insurance shall cover against accidents, injuries, illness connected with pregnancy or otherwise or any loss in the self-employment due to natural calamity or any mishap.

(4) The Central Government shall determine the amount of insurance and the premium payable by every woman and the period of the insurance cover thereon.

26. (1) The Central Government shall constitute a Fund to be called the Women Welfare Fund for carrying out welfare measures for women other than working women.

Welfare Fund for women other than working women.

(2) Every State Government shall contribute to the Fund in such ratio as may be determined by the Central Government.

(3) The Fund shall be utilised for providing necessary facilities to women pursuing education, or self-employment and for payment of pension to destitute women.

CHAPTER VI

ECONOMIC RIGHTS

27. (1) The Central Government shall establish a Women Development Bank with its headquarters at New Delhi.

Establishment of Women Development Bank.

(2) The Bank shall set up its regional offices in every State capital and a branch in every city having a population of more than one million and in every district:

Provided that the bank may set up more than one branch in a city or a district in accordance with its population and requirement.

28. (1) The Bank shall be managed by a Board consisting of the following, namely:—

Board to manage Bank.

(a) a Chairman, who shall be an expert in banking service to be appointed by the Central Government;

(b) members to represent the following:—

- (i) Union Ministry of Women Development;
- (ii) Union Ministry of Finance;
- (iii) a representative of National Commission of Women established under the National Commission for Women Act, 1990;
- (iv) a representative of reputed Women's Associations in the country; and
- (v) a representative of Legal profession.

20 of 1990.

(2) The terms of appointment, qualification of Chairman and other members of the Board shall be such as may be prescribed.

(3) The salaries and other allowances and conditions of service of the Chairman shall be such as may be prescribed.

(4) The members of the Board shall be entitled to such allowances as may be prescribed for attending the sittings of the Board.

Board to frame policies and determine business of Bank.

29. The Board shall frame policies and determine business of the bank with a view to achieving around development of women.

Sitting of Bank.

30. (1) The Board shall hold sittings as often as possible but in any case not later than three months from the date of its previous sitting.

(2) The sittings of the Board shall be presided over by the Chairman and in his absence, by any member to be elected as acting chairman from members amongst themselves.

Capital of Bank.

31. (1) The authorised capital of the Bank shall be rupees five hundred crore and it may be increased at any time by the Central Government by notification in the Official Gazette.

(2) Every State Government shall contribute to the bank in such ratio as may be determined by the Central Government.

Dealings and transactions of Bank.

32. The dealings and transactions of the bank shall be exclusively with women and with such organisations as are engaged in the welfare activities of women.

Duty of Bank.

33. The bank shall perform the following business, namely:—

- (i) accept deposits, either in cash or in any banking instrument from women;
- (ii) open savings or other accounts in favour of women;
- (iii) extend loans to women for pursuing education including higher and technical education;
- (iv) extend loans to women for self-employment;
- (v) extend loans to women for illness, pregnancy including termination of pregnancy, marriages, religious ceremonies and for such other similar purposes as may be prescribed; and
- (vi) extend loans to women for purchase/construction of houses, purchase of vehicles and consumer durables.

Terms and Conditions for granting loan.

34. (1) The bank may impose such terms and conditions, as it may deem necessary, before granting loan to women.

(2) The loan amount shall be determined in accordance with circumstances and merits of every case.

(3) The loan amount shall be repayable over such period as may be determined by the bank.

35. (1) Every woman who wishes to avail of loan facility may make an application to the nearest bank.

Application for availing loan.

(2) The bank, on receipt of an application under sub-section (1), shall take a decision with regard to grant of loan, within a period of one month from the date of receipt of such application and state reasons in case the loan amount is not granted.

36. (1) The appropriate Government shall forward names of women registered with employment exchanges under their jurisdiction to the concerned regional office.

Women registered with Employment Exchanges to get priority.

(2) Any woman who has registered herself with an employment exchange and is not gainfully employed shall have preference in getting loan for self-employment.

37. The bank shall appoint necessary officers and staff for efficient functioning of the bank:

Officers and staff.

Provided that one half of the total number of appointments or posts shall be reserved for women.

CHAPTER VII

SOCIAL RIGHTS

38. Notwithstanding anything contained in any law for the time being in force throughout the territory of India, it shall be unlawful for any Government, authority or person, to compel any other person who is a citizen of India to fill and sign any form, statutory or non-statutory, official or non-official, which provides for establishing a person's lineage only through his or her father or to prohibit him or her to write his or her mother's name instead.

Establishment of lineage.

39. After the coming into force of this Act, it shall be lawful for any citizen of India to refuse to fill a form requiring him or her to give his or her father's name or her husband's name and which does not give him or her the option to give the name of his or her mother.

Right to refuse to fill forms in certain cases.

40. It shall be a grave misdemeanour under this Act for any person to describe any citizen of India as "bastard".

Misdemeanour under the Act.

41. (1) Whosoever compels any citizen of India to act in a manner contrary to the provisions of sections 38 and 39 of this Act or discriminate against any citizen on the ground of the citizen's refusal to act in a manner which is against the provisions of these sections, shall be punishable with rigorous imprisonment for a term which may extend to one month and fine of five hundred rupees or one month's imprisonment in lieu thereof.

Penalties.

(2) The misdemeanour mentioned in section 40 shall be punishable with rigorous imprisonment for a term which may extend to one year and with fine of five hundred rupees or one month's imprisonment in case of non-payment of fine.

CHAPTER VIII

PROPERTY RIGHTS

42. An unmarried woman shall have the following rights, namely:—

Rights of an unmarried woman.

(a) she shall have the right to live in the house of her parents but shall not have the right to seek partition or disposal of such house;

(b) she shall have the right to claim an equal share in any property, other than the residential house or dwelling unit referred to in clause (a), as a coparcener to such property, whether such property is a joint-family property or any premises held on lease or licence or under any other arrangement by her parents:

Provided that she shall have the right to claim partition of such property, if she decides to remain unmarried after she attains the age of eighteen years or such other age of marriage as may be determined under any law for the time being in force;

(c) she shall have the right to claim an equal share as a coparcener, in the gains of the family business of her parents; and

(d) she shall have right to claim an equal share in any property, as a coparcener, which is acquired by her parents by way of exchange, sale or transfer of any existing

property or which is acquired by her parents by way of accreditation or succession to any ancestral property or otherwise.

Rights of a
married
woman.

43. A married woman shall have the following rights, namely:—

(a) she shall have the right to live in the house of her husband whether owned by him or by his joint family or owned by him, solely or jointly, as a lessee or licensee:

Provided that such right shall not be void in the event of judicial separation, divorce or death of the husband:

Provided further that she shall also have the right to live in the residential house or dwelling unit of her parents, in case she is deserted or divorced by her husband, without seeking partition or disposal of whole or any part thereof;

(b) she shall have the right to claim an equal share, as a coparcener, in the property of her husband including that of in the joint family property of her husband, from the date of marriage, and like any other coparcener she shall also have the right to claim partition or disposal of whole or part of such property:

Provided that in the event of disposal of part or whole of such property, the other coparcener shall have right to pre-emption;

(c) she shall have an option to have the custody of the children born out of the wedlock and shall have the right to claim maintenance, not inconsistent with the status of the family of her husband, both for herself and for her children which shall include the expenses to be incurred on the education, training and upbringing of her children in case of dissolution of marriage:

Provided that if in the interest of the education, training or upbringing of the children it is considered necessary or expedient to leave the children under the custody of the husband or any one else, she shall have the right to free access to the children born out of the wedlock, irrespective of estrangement, desertion, divorce or death of the husband.

(d) she shall have the right to claim an equal share in the gains of the business of her husband or in the family business of her husband or in any other business in which her husband is a partner.

Rights of a
widow.

44. A widow shall have the following rights, namely:—

(a) she shall, subject to such eligibility, as may be prescribed, be entitled to suitable employment by the Central Government in case her deceased husband was employed in any of the establishment under the Central Government:

Provided that if she is not eligible for any such employment, she shall be entitled to such monthly pension as would have been payable to her husband at the time of his deemed superannuation:

Provided further that if the death of her husband occurs during the course of his duties, she shall be entitled to such monthly salary and allowances, as would have been payable to her husband till his deemed superannuation, besides any other compensation admissible to her under any other law for the time being in force;

(b) she shall have the first claim and absolute right to the property of her deceased husband;

(c) she shall be entitled to have such share and status as the share and status of her deceased husband would have been, in the family business; and

(d) she shall have the right to live in the residential house or dwelling unit of her parents, in the case she so desires, without seeking partition or disposal of whole or any part thereof.

CHAPTER IX

SPECIAL COURTS

45. (1) The appropriate Government shall set up sufficient number of special courts to deal exclusively with matters arising out of atrocities or offences committed against women.

Establishment
of special
Courts for
Women

(2) Each special court shall consist of a Chief Judge and such number of other Judges as the appropriate Government may deem fit.

(3) Every special court shall be headed by the Chief Judge.

46. (1) A person shall be qualified for appointment as the Chief Judge unless he,—

Qualification
for appoint-
ment as Chief
Judge and other
Judges.

(a) is, or has been, a District Judge; or

(b) has, for at least two years, held the office of the Judge of the special court; and has, for at least five years, been associated with women's cause;

(2) A person shall be qualified for appointment as a judge unless he,—

(a) is, or has been, a judicial Magistrate; or

(b) has, for a period of not less than five years, been practising law; and has for atleast five years, been associated with women's cause.

(3) Every Chief Judge of a special court in a Union territory shall be appointed by the President,

(4) Every Chief Judge of a special court in a State shall be appointed by the Governor of the State concerned,

(5) Every other Judge of a special court shall be appointed by the appropriate Government.

(6) One-third of the total number of posts of Chief Judges and other Judges in every State shall be reserved for women.

47. (1) In the event of the occurrence of any vacancy in the office of the Chief Judge of a special court by reason of his death, resignation or otherwise, the senior most Judge of that Court shall act as the Chief Judge until the date on which a new Chief Judge, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

Senior most
Judge to act as
Chief Judge or
to discharge his
functions in
certain circum-
stances

(2) When the Chief Judge is unable to discharge his functions owing to absence, illness or any other cause, the senior most Judge of that special court shall discharge the functions of the Chief Judge until the date on which Chief Judge resumes his duties.

48. Every Chief Judge and other Judges shall hold office as such for a term of five years from the date on which he enters upon his office or until he attains,—

Term of office.

(a) in the case of the Chief Judge, the age of 65 years, and

(b) in the case of any other Judge, the age of 60 years,

whichever is earlier.

49. Every Chief Judge or a Judge may, by notice in writing under his hand addressed to the President in case he is a Chief Judge or a Judge of a special court in a Union territory or to the Governor, in case he is a Chief Judge or a Judge of a special court in a State resign from his office:

Resignation
and removal.

Provided that the Chief Judge or any other Judge shall unless he is permitted by the President or the Governor, as the case may be, to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

Salary and allowances and other terms and conditions of service of Chief Judge and other Judges.

50. The salaries and allowances payable to, and other terms and conditions of service (including pension, gratuity and other retirement benefits) of the Chief Judge or a Judge of a special court shall be such as may be prescribed by the Central Government:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chief Judge or a Judge of a special court shall be varied to his disadvantage after his appointment.

Financial and administrative powers of the Chief Judge.

51. Every Chief Judge shall exercise such financial and administrative powers over the special court as may be vested in him in such manner as may be prescribed.

Staff of the special court.

52. The appropriate Government shall determine the nature and categories of the officers and other employees required to assist a special court in the discharge of its functions.

Jurisdiction, powers and authority of Special Courts.

53. Save as otherwise expressly provided in this Act, every special court shall exercise all the judicial powers and authority exercisable immediately before that day by all courts (except High Courts and the Supreme Court) in relation to all matters of offences or atrocities committed against women under the Indian Penal Code or any other law for the time being in force.

Power of Special Courts.

54. Every special court constituted under this Act shall have powers of any other court for the purpose of holding any inquiry as are vested in a civil court under the Code of Civil Procedure, 1908 and in a criminal court under the Code of Criminal Procedure, 1973.

5 of 1908
2 of 1974.

Exclusion of Jurisdiction of courts except the concerned High Court and the Supreme Court.

55. On the date of coming into force of this Act, the jurisdiction, powers and authority in relation to any offences or crimes or atrocities committed against women, shall be exercisable by a special court and no other court (except High Courts and the Supreme Court) shall have, or be entitled to exercise any jurisdiction, powers or authority in relation to such offences or crimes or atrocities committed against women.

Transfer of pending cases.

56. Every suit or other proceeding pending before any other court or any authority immediately before the date of coming into force of this Act being a suit or proceeding the cause of action wherein it is based is such that it would have been if it had arisen after such constitution, within the jurisdiction of a special such court, shall stand transferred on that date to such special court:

Provided that nothing contained in this section shall apply to a suit or other proceeding pending in a High Court or the Supreme Court.

Free legal aid to women.

57. The appropriate Government shall make necessary arrangements and provisions for free legal aid to women for meeting the cost of litigation in special courts.

CHAPTER-X

MISCELLANEOUS

Act to have over-riding effect.

58. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Power to remove difficulties.

59. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty.

(2) Every order referred to in this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Power to make rules.

60. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

Even after fifty years of independence, our womenfolk have not improved much. They are treated as second grade citizens. Though they also equally, if not more than the menfolk, contribute to the nation building activities, yet they are never recognised. Majority of the women are illiterate, socially insecure, economically dependent upon menfolk. Though the Government has taken many steps to improve the lot of women, yet they are not sufficient. Womenfolk in our country are placed at disadvantage in the following sectors:—

- (1) Education
- (2) Employment—They are given less wages than men
- (3) Social rights
- (4) Property rights
- (5) Self-employment opportunities

Atrocities against women are increasing day by day. Cases of atrocities against women are piling up in courts. Courts take a long time in disposing of the cases. Sexual harassment takes place at the work places. Working women have not been given adequate facilities at the work places.

Girls are not sent to schools by their parents. They do not get admission in schools. There is no vocational training facility for them. Women are not given jobs. They do not have adequate opportunities for self-employment. The National Commission for Women does not have adequate powers to deal with the situation.

With a view to around development of women, it is proposed to bring forward a comprehensive Bill providing for—

- (1) free education to women;
- (2) vocational training;
- (3) free insurance facilities;
- (4) facilities at the work places;
- (5) equal rights in the management, associations, etc.;
- (6) special courts to deal with atrocities against women;
- (7) facilities for destitute women;
- (8) property rights.

The Bill seeks to make an attempt to improve the lot of women.

NEW DELHI;
October 21, 1999.

V. SAROJA

FINANCIAL MEMORANDUM

Clause 3 of the Bill makes provision for free education to women. It also provides for opening of adequate number of schools for them. Clause 4 provides for vocational training to women. Clause 6 makes provision for Working Women Welfare Fund. Clause 8 provides for constitution of Advisory Committees. Clause 10 provides for appointment of Special officers to supervise the facilities to working women at the work places. Clause 16 provides for appointment of Special Officer to investigate cases of sexual harassment against women. Clause 23 provides for pension to destitute women. Clause 24 provides for establishment of women's homes. Clause 25 makes provision for insurance scheme for women.

Clause 26 provides for setting up of a Fund for women other than working women. Clause 27 provides for the establishment of a Women Development Bank. Clause 28 provides for the Board to manage the Bank. Clause 31 provides that the authorised Capital of the Bank shall be rupees five hundred crore. Clause 37 provides for appointment of officers and staff of the Bank. Clause 44 provides that a widow shall be entitled to employment/pension. Clause 45 provides for establishment of Special courts for women. Clause 50 provides for salaries and allowances of Chief Judge or other Judges of special courts. Clause 52 provides for appointment of officers and staff to assist special courts. Clause 57 provides for free legal aid to women.

The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve an annual recurring expenditure of rupees one thousand crore. A non-recurring expenditure of about rupees ten thousand crore is also likely to be involved.

STATEMENT OF OBJECTS AND REASONS

Medical profession is one of the important professions providing health care to the citizens. Persons suffering from any illness or disease look upon doctors as Gods. Of late, it has been observed that with the advent of consumer movement in the country, people make complaints against medical practitioners even on petty grounds appearing for huge amounts as compensation. Though, the medical practitioners who are guilty or who have been negligent or inactive should be punished severely yet, the attitude of making complaints should not become a common trend.

In the recent past many cases have been filed in consumer courts for redressal of grievances against medical practitioners. Though, it is the duty of the Government to ensure best health care to the citizens of the country and to ensure that medical practitioners follow professionalism and ethics in their profession, yet it is the duty of the Government also to see that the medical practitioners are not harassed unnecessarily on petty grounds. Though, it is understandable that the consumer movement has gained momentum in the country and cases are disposed of quickly as never before, yet cases relating to medical profession should not be filed in consumer courts because the Judges of the consumer courts, it is often found, do not possess even basic knowledge in medicine or do not understand the problems faced by medical practitioners in their profession.

Therefore, it is essential to set up a machinery for the redressal of grievances against medical practitioners possessing adequate knowledge and experience in medicine so that the merits and circumstances of each case can be gone into detail and a fair and just judgement can be given. It is also proposed to make provision for punishment to persons making frivolous complaints in order to reduce the piling up of cases against medical practitioners.

The Bill seeks to regulate the medical profession in such a way so as to enable the medical practitioners to cater to the needs of the public at large in the best way.

Hence this Bill.

NEW DELHI;
October 21, 1999.

V. SAROJA.

(iv) "medical practitioner" means a practitioner who is eligible to practise in any system of Indian medicine or Allopathy or any other system of medicine for the time being recognised as a system of medicine; and

(v) "prescribed" means prescribed by rules made under this act.

Establishment
of Indian
Health Care
Council.

3. (1) The Central Government shall establish a Council to be known as Indian Health Care Council consisting of a Chairman and four other members.

(2) The Chairman and the other members shall possess knowledge and experience of at least a period of ten years in Allopathy or in any system of Indian medicine.

(3) The Chairman and the other members shall be appointed for a term of five years from the date of appointment or until they attain sixty two years of age, whichever is earlier.

(4) The Chairman and the other members shall be entitled to such salaries and allowances as may be prescribed.

Branches of
Council.

4. The Council shall set up a Branch in every State and Union Territory.

Arbitration
Authority.

5. For the purposes of this Act, the Council shall set up an Arbitration Authority in every district:

Provided that more than one Arbitration Authority may be set up in any district in accordance with the need and requirements.

Appointment
of Arbitrator.

6. (1) Every Arbitration Authority set up under section 5 shall consist of an Arbitrator and two other members.

(2) The Arbitrator so appointed shall possess adequate knowledge in medicine and should have practised medicine atleast for a period of five years and the members shall be appointed from persons having experience in the fields of social service or consumer affairs.

(3) The Arbitrator and other members of every Arbitration Authority shall be entitled to such salaries and allowances, as may be prescribed.

Registration of
Medical Practitioners.

7. Every medical practitioner shall register himself with the Council as soon as he has become entitled to practise.

Compulsory
Registration.

8. Notwithstanding anything contained in the Indian Medical Council Act, 1956, no person who has not registered himself with the Council shall be qualified to practise medicine in any part of the territory of India.

102 of 1956.

Complaint
against Medical
Practitioner.

9. (1) Any person who has been affected by an action of a medical practitioner in the course of his duties and functions as such, and has suffered a mental or physical injury capable of being quantified or has suffered any disability, whether permanent or temporary in nature, out of the negligence or inaction of the medical practitioner, may make a complaint to the concerned Arbitration Authority.

(2) Any complaint under sub-section (1) shall be in writing and addressed to the concerned Arbitrator and shall be given within a period of one month from the date of occurrence of negligence or inaction on the part of the medical practitioner.

Power to con-
duct inquiry.

10. The Arbitration Authority, on receipt of a complaint under section 9, shall make such inquiry as may be deemed necessary for the purpose of redressal of the complaint:

Provided that while making inquiry, the Arbitration Authority may require the attendance of the medical practitioner and other persons involved in the suit or any other person, who in the opinion of the Arbitration Authority, can tender evidence or submit documents in connection with the suit or tender expert advice.

5 of 1908

11. While discharging its functions, the Arbitration Authority shall have all the powers of a civil court as provided under the Code of Civil Procedure, 1908 with respect to issue of summons, taking of evidence and examination of witnesses.

Powers of
Arbitration
Authority.

12. The Arbitration Authority shall dispose of a complaint as soon as possible, but in any case not later than two months from the date of receipt of the complaint.

Disposal of
Complaints.

13. The Arbitration Authority, while disposing of a complaint, may award compensation for the injury suffered or treatment free of cost as may be required for the complete recovery of the affected person or recommend to the Council for the cancellation of the registration of the medical practitioner for a specified period or permanently.

Compensation.

14. The Arbitration Authority, while discharging its functions under the provisions of this Act may take into account the circumstances and merits of each case and evidence and documents tendered, if any, and shall have the power to seek opinion of any medical practitioner, who is specialised in any field of medicine or any other person.

Admission of
evidences and
to seek
opinion of
experts.

15. The award passed by the Arbitration Authority shall be binding on all the parties to the complaint.

Award shall be
binding.

16. If any person has made a complaint of a frivolous nature or if the complaint is of such a nature that it should not have been brought to the notice of the Arbitration Authority or if the complaint has no cause of action or if the Arbitration Authority feels that the person has made the complaint deliberately or intentionally with a view to denigrating the image of the medical practitioner and with a view to hurt his practice, the Arbitration Authority may punish the person who has made such a complaint with imprisonment for a period of one year and a fine of rupees ten thousand:

Punishment
for frivolous
complaints.

Provided that where the person who has made the complaint proves that he has made the complaint in the good faith and with a good intention on the basis of information available with him and to the best of his knowledge, the Arbitration Authority shall not pass any sentence against the person who has made the complaint.

17. The Indian Health Care Council shall perform the following functions:—

Functions of
Council.

(i) advise the Central Government in the formulation of a health plan covering all sections of the society, from time to time, with a view to making available best health care to the citizens of the country;

(ii) recommend to the Government in the matter of qualifications and experience required for a medical practitioner before he is entitled to practise in any system of medicine;

(iii) may, on a request from State Government, advise the State Government about the health care and restructuring of hospitals and dispensaries with a view to making available cheap and good health care to the citizens; and

(iv) recommend to the Central Government on any matter pertaining to medical profession or health care.

18. (1) On and from the date of commencement of this Act, no suit shall be filed against a medical practitioner for his negligence or inaction in the course of his duties as such in any court:

Jurisdiction.

Provided that nothing in this section shall apply to the suits already pending in a court of law.

(2) On and from the date of commencement of this Act, any complaint against the medical practitioner shall be filed only before the Arbitration Authority.

19. An appeal against the decision of the Arbitration Authority shall lie in a High Court.

Appeal against
Arbitration
Authority.

(c) "Financial Establishment" means and includes any financial establishment or any person accepting deposit under any scheme or arrangement or in any other manner but does not include a corporation or a co-operative society owned or controlled by any State Government or the Central Government or a banking company as defined under clause (c) section 5 of the Banking Regulation Act, 1949;

10 of 1949

(d) "public deposit" includes and shall always be deemed to have included any receipt of money or acceptance of any valuable commodity by any Financial Establishment and that money or commodity, as the case may be, and which shall be returned to an investor after a specific period either in cash or in kind or in the form of a specified service with or without any benefit in the form of interest, bonus, profit or in any other form, but does not include—

(i) amount raised by way of share capital or by way of debenture, bond or any other instrument covered under the guidelines given, and regulations made by the Securities and Exchange Board of India, established under the Securities and Exchange Board of India Act, 1992;

15 of 1992

(ii) amounts contributed as capital by partners of a firm;

(iii) amounts received from a scheduled bank or a co-operative bank or any other banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949;

10 of 1949.

(iv) any amount received from,—

(a) the Industrial Development Bank of India;

(b) a State Financial Corporation;

(c) any financial institution specified in or under section 6A of the Industrial Development Bank of India Act, 1964; or

18 of 1964

(d) any other institution that may be specified by the Central Government in this behalf;

(v) amounts received in the ordinary course of business by way of,—

(a) security deposit;

(b) dealership deposit;

(c) earnest money; and

(d) advance against order for goods or services;

(vi) any amount received from an individual or a firm or an association of individuals not being a body corporate registered under any enactment relating to money lending which is for the time being in force in the State;

(vii) any amount received by way of subscriptions in respect of a Chit;

(viii) any amount received from the Central Government or a State Government or any amount received from any other source and whose repayment is guaranteed by the Central Government or a State Government or any amount received from a local authority or a foreign Government or any, foreign citizen, authority or person;

(ix) any amount received from the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 or the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956, or the General Insurance Corporation of India and its subsidiaries established in pursuance of the provisions of section 9 of the General Insurance Business (Nationalisation) Act, 1972 or the Small Industries Development Bank of India established under the Small Industries Develop-

18 of 1964

31 of 1956

57 of 1972

BILL No. 84 OF 1999

A Bill to regulate medical profession with a view to provide best available health care to the citizens of the country.

BE it enacted by Parliament in the Fiftieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Medical Profession (Regulation) Act, 1999.

Short title, extent and commencement

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(i) "appropriate Government" means the Central Government or a State Government, as the case may be;

(ii) "Arbitrator" means Arbitrator appointed under section 6;

(iii) "Council" means the Indian Health Care Council established under section 3;

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for setting up of the Indian Health Care Council consisting of a Chairman and four other members. They are entitled to such salaries and allowances as may be prescribed. Clause 4 enables the Council to set up a branch in every State and Union Territory. Clause 5 provides for the constitution of Arbitrary Authorities in every district for hearing the cases filed against medical professionals. Clause 6 provides for salaries and allowances to Arbitrator and other members of every Arbitration Authority. Clause 13 provides for award of compensation. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. A recurring expenditure of about rupees ten crore is likely to be involved from the Consolidated Fund of India. A non-recurring expenditure of about rupees twenty five thousand is also likely to be involved.

BILL NO. 98 OF 1999

A Bill to provide for protection of interests of depositors in the financial establishments.

BE it enacted by Parliament in the Fiftieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Investors' Protection Act, 1999.

(2) It extends to the whole of India.

(3) The provisions of this Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf:

Provided that the Central Government may appoint different dates for commencement of different provisions of the Act as the expediency requires.

2. In this Act, unless the context otherwise requires,—

(a) "Authority" means Investors' Protection Regulatory Authority constituted under section 4;

(b) "Certificate" means Certificate of Registration to a financial establishment by the Investors' Protection Regulatory Authority;

Short title,
extent and
commence-
ment.

Definitions.

Overriding
effect of the
Act.

20. The provisions of this Act shall have effect notwithstanding anything contained in the Consumer Protection Act, 1986 or any other law for the time being in force pertaining to medical profession. 68 of 1986.

Power to make
rules.

21. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

39 of 1989
52 of 1963
61 of 1981
54 of 1948

ment Bank of India Act, 1989, or the Unit Trust of India established under the Unit Trust of India Act, 1963, or National Bank for Agriculture and Rural Development established under the National Bank for Agriculture and Rural Development Act, 1981 or an Electricity Board constituted under the Electricity (Supply) Act, 1948, or the Tamil Nadu Industrial Investment Corporation Limited, or the Industrial Development Corporation of India Limited, or the Rehabilitation Industries Corporation of India Limited, or the Industrial Credit & Investment Corporation of India Limited, or the Industrial Finance Corporation of India Limited, or the Industrial Investment Bank of India Limited, or the State Trading Corporation of India Limited or the Rural Electrification Corporation Limited, or the Minerals and Metals Trading Corporation of India Limited, or the Agricultural Finance Corporation Limited, or the State Industrial and Investment Corporation of Maharashtra Limited or the Gujarat Industrial Investment Corporation Limited or Asian Development Bank or International Finance Corporation or any other institution that may be specified by the Reserve Bank of India in this behalf.

(x) any amount received by a company from any other company;

(xi) any amount received by way of subscriptions to any shares, stock, bonds or debentures pending the allotment of the said shares, stock, bonds on debentures and any amount received by way of calls in advance on shares, in accordance with the articles of association of the company so long as such amount is not repayable to the members under the articles of association of the company;

1 of 1956

(xii) any amount received from a person who at the time of receipt of the amount was a director of the company or any amount received from its shareholders by a private company or by a private company which has become a public company under section 43A of the Companies Act, 1956, and continues to include in its articles of association provisions relating to the matters specified in clause (iii) of sub-section (1) of section 3 of the Companies Act, 1956:

Provided that the director or shareholder, as the case may be, from whom the money is received furnishes to the company at the time of giving the money, a declaration in writing to the effect that the amount is not being given out of funds acquired by him by borrowing or accepting from others;

(xiii) any amount raised by the issue of bonds or debentures secured by the mortgage of any immovable property of the company; or by any other asset or with an option to convert them into shares in the company provided that in the case of such bonds or debentures secured by the mortgage of any immovable property or secured by other assets, the amount of such bonds or debentures shall not exceed the market value of such immovable property or other assets;

(xiv) any amount brought in by the promoters by way of unsecured loan in pursuance of stipulations of lending institutions subject to the fulfilment of the following conditions, namely:—

(i) the loan is brought in pursuance of the stipulation imposed by the lending public financial institution in fulfilment of the obligation of the promoters to contribute such finance,

(ii) the loan is provided by the promoters themselves and/or by their relatives, and not from their friends and business associates, and

(iii) the exemption under this sub-clause shall be available only till the loan of financial institution is repaid and not thereafter.

Explanation I—"Chit" has the meaning as assigned to it in section 2 of the Chit Funds Act, 1982.

40 of 1982.

Explanation II—Any credit given by a seller to a buyer on the sale of any property (whether movable or immovable) shall not be deemed to be deposit for the purposes of this clause;

(e) Any word or expression used in this Act and which is not specifically defined or explained under this Act but defined or explained in the Reserve Bank of India Act, 1934 or in the Securities and Exchange Board of India Act, 1992 or the Banking Regulation Act, 1949 or in the Industrial Development Bank of India Act, 1964 shall have the same meaning as assigned to them in the respective Acts.

2 of 1934.
15 of 1992.
10 of 1949.
18 of 1964.

Prohibition of
acceptance of
deposits.

3. (1) Except as provided under this Act, no financial establishment shall accept any deposit in any form from any person.

(2) Receipt of any cash or commodity or article or animal under any scheme or otherwise for return either in case or in kind, with or without any benefit shall be deemed to be an acceptance of deposit for the purposes of this Act.

Constitution of
Investors'
Protection
Regulatory
Authority.

4. (1) The Central Government shall, by notification in the Official Gazette, constitute an Authority to be called the Investors' Protection Regulatory Authority.

(2) The Authority shall consist of a Chairman and such other number of members as may be prescribed.

(3) The Central Government may set up such number of branches as it may deem fit.

(4) The Central Government shall provide such number of officers and staff, as may be necessary to enable authority to exercise its powers and perform its functions effectively.

Certificate of
Registration.

5. (1) Any Financial Establishment or a person, as the case may be, shall make an application for Certificate of Registration to this effect to the Authority in such form and with such information as may be specified by the Authority from time to time.

(2) On receipt of an application for issue of Certificate, the Authority shall conduct such enquiry or make inspection of the books of account and other registers or examine such persons or authorities as the Authority may deem necessary, and take into account the following aspects before issuing of certificate:—

(a) that the capital of the financial establishment is sufficient as to prudently conduct the business of such financial establishment accepting deposits by apprising itself with all the norms of prudence for conducting such business;

(b) that the antecedents of the promoter or the organiser or the person responsible for the conduct of the business of such financial establishment are such that there are sufficient reasons to believe that the interests of the depositors shall not be prejudicially jeopardized;

(c) that the general character of the management or the proposed management of such financial establishment accepting the deposit is not prejudicially to the public interest or the interests of the depositors;

(d) that the public interest shall be served by the grant of Certificate to the applicant to commence or carry on accepting deposit;

(e) that the grant of Certificate shall not be prejudicial to the operation and consolidation of the financial sector or not inconsistent with monetary stability and economic growth of the country; and

(f) any other condition, fulfilment of which, in the opinion of the Authority shall be necessary to ensure that the commencement or carrying on any business by such financial establishment accepting deposit shall not be prudential to the public interest.

(3) The Authority may, after being satisfied that the conditions specified in sub-section (2) are fulfilled, grant a Certificate subject to such conditions as the Authority considers fit to impose and such conditions may be imposed at any time or from time to time as the situation requires:

Provided that it shall not reject any application for issue of Certificate or cancel any Certificate issued under this Act without giving a reasonable opportunity to the applicant or the financial establishment, as the case may be, for making its submissions for the proposed rejection or cancellation as the case may be:

Provided further that an order of rejection or cancellation of a Certificate passed under this provision shall be final and no suit against the order shall lie in any court of law.

6. The Certificate issued under this Act shall be valid until the promoters or the directors or the persons responsible for conduct of the business of the financial establishment at the time of issue of Certificate remain the same:

Validation of Certificate.

Provided that, if the Authority is satisfied that any change in the management is made with the prior approval of Authority and that such change of management shall not adversely affect the character of the management of the financial establishment to whom the certificate was issued, may, renew the same subject to such conditions as it may deem fit.

7. The Authority may cancel the Certificate granted under this Act if such financial establishment—

Cancellation of Certificate.

- (i) ceases to carry on the business; or
- (ii) has failed to comply with any condition subject to which the Certificate was issued to it; or
- (iii) at any time fails to fulfil any of the conditions referred to in section 5;
- (iv) fails to comply with any of the provisions of this Act or any direction or order issued by the Authority under the provisions of this Act or to maintain accounts in accordance with the requirement of any direction or order issued by the Authority under the provisions of this Act; or
- (v) has failed to submit or offer for inspection of its Books of Accounts and other relevant documents when so demanded by the Authority.

8. (1) No Certificate under section 5 shall be issued unless the paid up capital and reserves of the applicant is not less than rupees five crore or such other sum as may be specified by the Authority:

Requirement of minimum Capital.

Provided that the paid up capital and reserves of the applicant shall not be more than rupees ten crore.

(2) The Authority may, specify different sum of capital and reserves for different classes of financial establishments within the ceilings as specified in sub-section (1).

(3) A financial establishment accepting deposits on the date of the coming into force of this Act may, continue to do so for a period not exceeding three years so as to enable such financial establishment to have the required minimum capital and reserves, as contemplated in sub-section (1).

9. The Authority may, in the public interest or to protect the interests of the depositors or to prevent the mismanagement of any financial establishment,—

Power to collect information and to give direction.

- (a) direct to submit to the Authority such information in such form, and in such manner, at such intervals as the Authority specify from time to time;

(b) direct any financial establishment or class of financial establishment to comply with such requirements as it deems necessary for the aforesaid purpose;

(c) direct to maintain its books of accounts in such form, as it deems fit, so as to ensure proper and complete disclosure of information;

(d) direct to appoint its auditors with the prior approval of the Authority,

(e) issue directions specifying the terms and conditions subject to which deposits may be accepted;

(f) direct and specify the extent of investment to be made by such financial establishment in any particular manner;

(g) direct not to extend financial or non-financial facilities to any person or any group of persons not exceeding such limit as the Authority deems fit;

(h) prohibit acceptance of deposit for such period as it deems fit;

(i) prohibit sale, mortgage or transfer in any form of its monies or other assets without the prior approval of the Authority; and

(j) inspect the premises at such intervals as it may deem fit to ensure the compliance of the provisions of this Act.

Prior approval
for amalga-
mation.

10. (1) No financial establishment shall amalgamate or take any steps for amalgamation with any other establishment without the prior approval of the Authority.

(2) No financial establishment, having deposit shall be allowed to amalgamate with any other establishment unless the financial establishment makes necessary arrangement for repayment of the deposit held by it.

Appointment
of Recovery
Officer.

11. (1) The Authority on being satisfied that the financial establishment has failed to repay its matured deposit or is likely to fail to repay its matured deposit or has reasons to believe that such financial establishment is conducting its affairs in the manner detrimental to the interests of the depositors, shall appoint a Recovery Officer to recover the dues of the financial establishment or to sell any property of the financial establishment expeditiously, so as to meet the liability in respect of the matured public deposit.

(2) The Recovery Officer shall have all the powers of a Receiver appointed by a Court of Law, under the provisions of Code of Civil Procedure, 1908 for realising the assets of the financial establishment for the distribution thereof to the depositors.

5 of 1908.

(3) A financial establishment, in respect of which a Recovery Officer is appointed, shall be bound to extend all the necessary information, papers and documents and co-operate with the Recovery Officer to sell or transfer or dispose in any manner any property of the financial establishment or to recover the dues of the financial establishment to the extent to meet the requirements of the matured deposits.

(4) The Recovery Officer may, if necessary, seek such assistance as it is necessary to discharge his duties from any police authority or other enforcement, authority as the situation demands.

Winding up of
financial
establishment

12. (1) The Authority may, if satisfied that it would be necessary to protect the interests of the depositors or in public interest or for the purpose of preventing any financial establishment from conducting its affairs detrimental to the interests of the depositors, file a petition for winding up of such financial establishment.

(2) On an application being made by the Authority under sub-section (1) the Court shall pass an order of winding up and appoint the Liquidator for completion of the winding up of the financial establishment.

(3) The Court may, appoint such person as the Liquidator to complete the winding up of the financial establishment as is suggested by the Authority or in the absence of such

suggestion may, appoint either the Official Liquidator or any such person as the Court deems necessary, as the Liquidator.

(4) The Authority may, with the concurrence of the Central Government, frame regulations for speedy winding up of the financial establishment and the procedure prescribed therein shall be applicable for the winding up of such financial establishment.

13. The Authority, on being satisfied that it is necessary to do so may, declare, by notification in the Official Gazette, that any or all of the provisions of this Act shall not apply to a financial establishment or a class of financial establishments either generally or for such period as may be specified, subject to such conditions, limitations or restrictions as it may think fit to impose.

Exemption.

14. Any financial establishment which contravenes any of the provisions of the Act shall be punishable with imprisonment which may extend upto ten years and with fine which may extend to rupees fifty lakh or with both:

Penalties.

Provided that, except for the exceptional circumstances or reasons to be recorded in the order the imprisonment shall not be less than for one year and the fine shall not be less than rupees ten thousand.

15. (1) Where financial establishment committing a contravention or default referred to in section 14, is a company, every person who, at the time the contravention or default was committed, was in charge of, and was responsible to, the financial establishment for the conduct of the business of the financial establishment, as well as the financial establishment, shall be deemed to be guilty of the contravention or default and shall be liable to be proceeded against and punished accordingly:

Offences by companies.

Provided that nothing contained in the sub-section (1) shall render any such person liable to punishment if he proves that the contravention or default was committed without his knowledge or that he had exercised all due diligence to prevent the contravention or default.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the same was committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary, or other officer or employee of the company, such director, manager, secretary, other officer or employee shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

16. (1) The violation of any provision of this Act shall be deemed to be a cognizable offence.

Offence to be cognizable.

(2) A Metropolitan Magistrate or a Judicial Magistrate of the First Class or a Court superior thereof, within whose jurisdiction the offence was committed shall try such offence.

(3) Notwithstanding contained in the Code of Criminal Procedure, 1973, a Court or a Magistrate trying any offence under this Act shall have the powers to impose the penalty or pass an order of imprisonment as provided under section 14.

17. (1) No suit, prosecution or other legal proceeding shall lie against the Authority or any other person in respect of anything which is done in good faith or intended to be done under this Act or in pursuance of any order, regulation or direction made or given thereunder.

Protection of action taken in good faith.

(2) No suit or other legal proceeding shall lie against the Authority or any person acting in pursuance of the provisions of this Act for any damage caused or likely to be caused by anything which is done in good faith or intended to be done under this Act or in pursuance of any order, regulation or direction made or given therein.

Act to have
over-riding
effect.

18. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any such law.

Power to frame
regulations.

19. (1) The Authority may, after consultation with the Central Government by notification in the Official Gazette, make regulations, not inconsistent with the provisions of this Act for all matters for which provision is expedient for the purpose of giving effect to the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power the regulations may provide for all or any of the following matters,—

- (a) the procedure for making application for Certificate;
- (b) procedure for rejection of Certificate;
- (c) procedure for cancellation of Certificate;
- (d) procedure for speedy winding up of a financial establishment;
- (e) the manner in which the books of accounts and the registers should be maintained by the financial establishment; and
- (f) generally for giving effect to any provision of the Act.

(3) Every regulation, as soon as may be, after it is made shall be forwarded to the Central Government and shall be published in the Official Gazette and shall be subject to the condition of previous publication.

(4) Every regulation made by the Authority under this section shall be laid, as soon as may be after it is made, before each House of the Parliament, while it is in session, for a total period, of thirty days which may be comprised in one or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.

STATEMENT OF OBJECTS AND REASONS

During the last four-five years, there has been an alarming rise in the instances of various financial intermediaries like companies, unincorporated bodies, associations, etc. duping the general public. Various financial intermediaries are luring the gullible public, inviting deposits by promising attractive return and incentives. The gullible public, with the hope of getting attractive returns and incentives part with their life savings to such financial intermediaries. Most of such financial intermediaries either disappear or fail to return the deposit as per their promises. As a result, millions of public depositors are facing the unbearable financial ruin caused by such financial intermediaries. The rules and regulations and the regulatory mechanism existing under the present legal framework are very much inadequate. Various regulatory authorities like Department of Company Affairs, Reserve Bank of India, Securities and Exchange Board of India, Register of Companies, etc. have proved to be ineffective to curb such a menace in the society. The Criminal law of the country also is not adequate to protect the interests of the depositors and to bring the culprits to books. This menace is growing day by day which has necessitated emergent attention of the Government to provide very stringent and effective legislative measures to protect the depositors' interests.

Another aspect is that the gullible public is being exploited by different types of financial intermediaries in the form of acceptance of deposit of money, deposit in kinds like Gold Coins Schemes, Plantation Schemes, Sheep Breeding Scheme, Piggery Scheme and hundreds of other imaginary schemes floated by unscrupulous promoters/companies and other financial intermediaries. Though such schemes are apparently very attractive, the intention behind such schemes has been proved to be almost invariably with the *mala fide* intention of fraudulent enrichment of such promoters at the cost of millions of gullible investors/depositors of their life savings. It would be necessary to frame comprehensive legislative measures to effectively, combat the menace at the earliest so as to save millions of gullible public from being ruined.

For achieving the above objects, it would be necessary to take emergent statutory measures by providing efficacious machinery to prevent and control such menace at the earliest.

NEW DELHI;
October 25, 1999.

KIRIT SOMAIYA.

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the constitution of Investors' Protection Regulatory Authority consisting of a Chairman and other members. Provision has also been made for appointment of officers and staff to assist the Authority. Clause 5 provides for grant of Certificate of Registration and clause 11 provides for appointment of Recovery officer. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. An annual recurring expenditure of about rupees ten crore is likely to be incurred from the Consolidated Fund of India.

A non-recurring expenditure of about rupees ten crore is also likely to be involved.

BILL NO. 91 OF 1999

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fiftieth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1999.

Short title.

2. In article 311 of the Constitution,—

Amendment of
article 311.

(a) in clause (2), in the second proviso,—

(i) for sub-clause (b), the following sub-clause shall be substituted, namely:—

“(b) where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for reasons, which are to be specified, substantiated by evidence and to be recorded by that authority in writing and also intimated to the person concerned, it is not reasonably practicable to hold such inquiry.”;

(ii) sub-clause (c) shall be omitted; and

(b) clause (3) shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The provisions of article 311 have been unreasonably used several times by the bureaucracy to unjustifiably punish the employees for many reasons. This provision is mostly used to punish those employees who are not in the good books of their senior officers. The employees who are involved in association activities are branded as political activists and are punished under these provisions without giving them any opportunity to explain their point of view or to argue their case. The provisions of fundamental rights enshrined in the Constitution are being violated in as much as the aggrieved employees are not given a chance to defend themselves. Rules of natural justice and fair play require that the employees must have a chance to know as to why they are being punished and also they should be given a chance to explain their position and also to submit the documents and evidence, if any, in their favour. Senior officer should not be vested with powers to dismiss employees without holding an inquiry. The procedure regarding holding inquiry should be dispensed with only in exceptional cases and that too after the officer who was conducting inquiry has recorded in writing that it is not practicable to hold an inquiry.

It is, therefore, proposed to amend article 311 of the Constitution suitably with a view to protecting the interests of employees.

NEW DELHI;
October 25, 1999.

BASUDEB ACHARIA.

BILL No. 86 OF 1999

A Bill to provide for the creation of a Legislative Assembly for the Union Territory of Lakshadweep and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fiftieth Year of the Republic of India as follows:—

PART I

PRELIMINARY

1. (1) This Act may be called the Government of Union Territory of Lakshadweep Act, 1999.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of the Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Short title and
commence-
ment.

Definitions.

2. In this Act, unless the context otherwise requires,—

- (a) article means an article of the Constitution;
- (b) "assembly constituency" means a constituency provided under this Act for the purpose of election to the Legislative Assembly;
- (c) Election Commission means the election commission referred to in article 324;
- (d) "Legislative Assembly" means the Legislative Assembly of the Union territory of Lakshadweep;
- (e) "Scheduled Castes/Scheduled Tribes" in relation to the Union territory means such castes, races or tribes or parts of or groups within such castes, races or tribes as are deemed under articles 341 and 342 of the Constitution to be Scheduled Caste or Scheduled Tribe in relation to that Union territory; and
- (f) "Union territory" means the Union territory of Lakshadweep.

PART II

LEGISLATIVE ASSEMBLY

Legislative Assembly and its composition.

3. (1) The total number of seats in the Legislative Assembly to be filled by persons chosen by direct election from territorial constituencies shall be forty.

(2) For the purposes of election to the Legislative Assembly, the Union territory shall be divided into single-member assembly constituencies in accordance with the provisions of Part III in such manner that the population of each of the constituencies shall, so far as practicable, be the same throughout the Union territory.

(3) Seats shall be reserved for the Scheduled Castes and Scheduled Tribes in the Legislative Assembly, and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats in the Assembly as the population of the Scheduled Castes or Scheduled Tribes in the Union territory bears to the total population of the Union territory.

Qualifications for membership of Legislative Assembly.

4. A person shall not be qualified to be chosen to fill a seat in the Legislative Assembly unless he,—

- (a) is a citizen of India and makes and subscribes before some person authorised in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Schedule;
- (b) is not less than twenty-five years of age; and
- (c) possess such other qualifications as may be prescribed in that behalf by or under any law made by Parliament.

Duration of Legislative Assembly.

5. The Legislative Assembly unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer and the expiration of the said period of five years shall operate as a dissolution of the Assembly:

Provided that the said period may be extended as while a proclamation of emergency issued under clause (1) of article 352 is in operation, by the President by order for a period not exceeding one year at a time and not extending it in any case beyond a period of six months after the proclamation has ceased to operate.

Session of Legislative Assembly, prorogation and dissolution.

6. (1) The Lieutenant Governor shall, from time to time, summon the Legislative Assembly to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.

(2) he Lieutenant Governor may, from time to time,—

(a) prorogue the Assembly;

(b) dissolve the Assembly.

7. (1) The Legislative Assembly shall, as soon as may be, choose two members of the Assembly to be respectively Speaker and Deputy Speaker thereof and, so often as the office of the Speaker or Deputy Speaker becomes vacant, the Assembly shall choose another member to be Speaker or Deputy Speaker, as the case may be.

Speaker and
Deputy
Speaker of
Legislative
Assembly.

(2) A member holding office as Speaker or Deputy Speaker of the Legislative Assembly—

(a) shall vacate his office if he ceases to be a member of the Assembly;

(b) may at any time by writing under his hand addressed, if such member is the Speaker, to the Deputy Speaker, and if such member is the Deputy Speaker to the Speaker resign his office; and

(c) may be removed from his office by a resolution of the Assembly passed by a majority of all the then members of the Assembly;

Provided that no resolution for the purpose of clause (c) shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution;

Provided further that whenever the Assembly is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the Assembly after the dissolution.

(3) While the office of Speaker is vacant, the duties of the office shall be performed by the Deputy Speaker, if the office of Deputy Speaker is also vacant, by such member of the Assembly as may be determined by the rules of procedure of the Assembly.

(4) During the absence of the Speaker from any sitting of the Assembly, by the Deputy Speaker, or if he is also absent, such person as may be determined by the rules of procedure of the Assembly, or if no such person is present, such other person as may be determined by the Assembly, shall act as Speaker.

(5) There shall be paid to the Speaker and the Deputy Speaker of the Legislative Assembly such salaries and allowances as may be respectively fixed by the Legislative Assembly by law and until provision in that behalf is so made, such salaries and allowances as the Lieutenant Governor may, with the approval of the President, by order determine.

8. (1) At any sitting of the Legislative Assembly while any resolution for the removal of the Speaker from his office is under consideration, the Speaker, or while any resolution for the removal of the Deputy Speaker from his office is under consideration, the Deputy Speaker, shall not, though he is present, preside and the provisions of sub-section (4) of section 7 shall apply in relation to every such sitting as they apply in relation to a sitting from which the Speaker or, as the case may be the Deputy Speaker is absent.

Speaker or
Deputy
Speaker not to
preside while a
resolution for
his removal
from office is
under
consideration.

(2) The Speaker shall have the right to speak in and otherwise to take part in the proceedings of the Legislative Assembly while any resolution for his removal from office is under consideration in the Assembly and shall, notwithstanding anything in section 13, be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of an equality of votes.

9. (1) The Lieutenant Governor may address the legislative Assembly and for that purpose require the attendance of members.

(2) The Lieutenant Governor may send message to the legislative Assembly whether with respect to a Bill then pending in the Assembly or otherwise and when a message is so sent, the Assembly shall with all convenient despatch consider any matter required by the message to be taken into consideration.

Right of
Lieutenant
Governor to
address and
send message
to Legislative
Assembly.

Special address by the Lieutenant Governor.

10. (1) At the commencement of the first session after each general election to the Legislative Assembly at the commencement of the first session of each year, the Lieutenant Governor shall address the Legislative Assembly and inform it of the causes of its summons.

(2) Provision shall be made by rules to be made by the Assembly regulating its procedure for the allotment of time for discussion of the matters referred to in such address.

Rights of Ministers as respects Legislative Assembly.

11. Every Minister who is not a member of the Legislative Assembly shall have the right to speak in and otherwise to take part in the proceedings of the Legislative Assembly and to speak in and otherwise to take part in the proceedings of any committee of the Legislative Assembly which he may be named a member, but shall not by virtue of this section be entitled to vote.

Oath or affirmation by member.

12. Every member of the Legislative Assembly shall, before taking his seat, make and subscribe before the Lieutenant Governor or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Schedule.

Voting in Legislative Assembly and Power of Assembly to act notwithstanding vacancies and quorum.

13. (1) Save as otherwise provided in the Act, question at any sitting of the Legislative Assembly shall be determined by a majority of votes of the members present and voting other than the Speaker or person acting as such.

(2) The Speaker or person acting as such shall not vote in the first instance, but shall have and exercise a casting vote in the case of an equality of votes.

(3) The Legislative Assembly shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in the Legislative Assembly shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled so to do, sat or voted or otherwise took part in the proceedings.

(4) The quorum to constitute a meeting of the Assembly shall be one-third of the total number of members of the Assembly.

(5) If at any time during a meeting of the Legislative Assembly there is no quorum, it shall be the duty of the Speaker, or person acting as such, either to adjourn the Assembly or to suspend the meeting until there is a quorum.

Vacation of seats.

14. (1) No person shall be a member both of Parliament and of the Legislative Assembly and if a person is chosen a member both of Parliament and of such Assembly, then at the expiration of such period as is specified in or under the Representation of the People Act, 1951, and the rules made by the President under clause (2) of article 190, that person's seat in Parliament shall become vacant, unless he had previously resigned his seat in the Legislative Assembly.

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(2) If a member of the Legislative Assembly—

(a) becomes subject to any disqualification mentioned in section 15 or section 16 for membership of the Assembly; or

(b) resigns his seat by writing under his hand addressed to the Speaker and his resignation is accepted by the Speaker,

his seat shall thereupon become vacant:

Provided that in the case of any resignation referred to in clause (b), if from the information received or otherwise and after making such inquiry as he thinks fit, the Speaker is satisfied that such resignation is not voluntary or genuine he shall not accept such resignation.

(3) If for a period of sixty days a member of the Legislative Assembly is without permission of the Assembly absent from all meetings thereof, the Assembly may declare his seat vacant:

Provided that in computing the said period of sixty days no account shall be taken of any period during which the Assembly is prorogued or is adjourned for more than four consecutive days.

15. (1) A person shall be disqualified for being chosen as, and for being, a member of the Legislative Assembly—

Disqualifica-
tion for
membership.

(a) if he holds any office of profit under the Government of India or the Government of any State or the Government of any Union territory other than an office declared by law made by Parliament or by the Legislature of any State or by the Legislative Assembly of any other Union territory not to disqualify its holder; or

(b) if he is for the time being chosen as, and for being, a member of either House of Parliament under the provisions of sub-clause (b) or sub-clause (c) of sub-clause (1) of article 102 or of any law made in pursuance of that article.

(2) For the purpose of the section, a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State or the Government of any Union territory by reason only that he is a Minister either for the Union or for such State or Union territory.

(3) If any question arises as to whether a member of the Legislative Assembly has become disqualified for being such a member under the provisions of sub-section (1), the question shall be referred for the decision of the President and his decision shall be final.

(4) Before giving any decision on any such question, the President shall obtain the opinion of the Election Commission and shall act according to such opinion.

16. The provisions of the Tenth Schedule to the Constitution shall, subject to the necessary modifications (including modifications for construing references therein to the Legislative Assembly of a State, article 188, article 194 and article 212 as references, respectively, to the Legislative Assembly, section 12, section 18 and section 37 of this Act), apply to and in relation to the members of the Legislative Assembly of a State and accordingly:—

Disqualifica-
tion on ground
of defection.

(a) the said Tenth Schedule as so modified shall be deemed to form part of this Act; and

(b) a person shall be disqualified for being a member of the Legislative Assembly if he is so disqualified under the said Tenth Schedule as so modified.

17. If a person sits or votes as a member of the Legislative Assembly before he has complied with requirements of section 12 or when he knows that he is not qualified or that he is disqualified for membership thereof, he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the Union.

Penalty for sit-
ting and voting
before making
oath or affirma-
tion or when
not qualified or
when disquali-
fied.

18. (1) Subject to the provisions of this Act and to the rules and standing orders regulating the procedure of the Legislative Assembly, there shall be freedom of speech in the Legislative Assembly.

Powers,
Privileges, etc.,
of members.

(2) No member of the Legislative Assembly shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Legislative Assembly or any committee thereof and no person shall be so liable in respect of the publication by or under the authority of such Assembly of any report, paper, votes or proceedings.

(3) In other respects, the powers, privileges and immunities of the Legislative Assembly and of the members and the committees thereof shall be such as are for the time being enjoyed by the House of the People and its members and committees.

(4) The provisions of sub-sections (1), (2) and (3) shall apply in relation to persons who by virtue of this Act have the right to speak in, and otherwise to take part in the proceedings, of the Legislative Assembly or any committee thereof as they apply, in relation to members of that Assembly.

Salaries and allowances of members.

19. Members of the Legislative Assembly shall be entitled to receive such salaries and allowances as may from time to time determine by the Legislative Assembly by law and until provision in that behalf if so made, such salaries and allowances as the Lieutenant Governor may, with the approval of the President, by order determine.

Exemption of property of the Union from taxation.

20. The property of the Union shall, save in so far as Parliament may by law otherwise provide, be exempted from all taxes imposed by or under any law made by the Legislative Assembly or by under any other law in force in the Union territory:

Provided that nothing in this section shall, until Parliament by law otherwise provides, prevent any authority within the Union territory from levying any tax on any property of the Union to which such property was immediately before the commencement of the Constitution liable or treated as liable, so long as the tax continues to be levied in the Union territory.

Restrictions on laws passed by Legislative Assembly with respect to certain matters.

21. (1) The provisions of articles 286, 287 and 288 shall apply in relation to any law passed by the Legislative Assembly with respect to any of the matters referred to in those articles as they apply in relation to any law passed by the Legislature of a State with respect to those matters.

(2) The provisions of article 304 shall, with the necessary modifications, apply in relation to any law passed by the Legislative Assembly with respect to any of the matters referred to in that article as they apply in relation to any law passed by the Legislature of a State with respect to those matters.

Special provisions as to Financial Bills.

22. (1) A Bill or amendment shall not be introduced into, or moved in, the Legislative Assembly except on the recommendation of the Lieutenant Governor if such Bill or amendment makes provision for any of the following matters, namely:—

- (a) the imposition, abolition, remission, alteration or regulation of any tax;
- (b) the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of the Union territory;
- (c) the appropriation of moneys out of the Consolidated Fund of the Union territory;
- (d) the declaring of any expenditure to the expenditure charged on the Consolidated Fund of the Union territory or the increasing of the amount of any such expenditure;
- (e) the receipt of money on account of the Consolidated Fund of the Union territory or the custody of such money:

Provided that no recommendation shall be required under this sub-section for the moving of an amendment making provision for the reduction or abolition of any tax.

(2) A Bill or amendment shall not be deemed to make provision for any of the matters aforesaid by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for license or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) A Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of the Union territory shall not be passed by the Legislative Assembly unless the Lieutenant Governor has recommended to that Assembly the consideration of the Bill.

Procedure as to lapsing of Bills.

23. (1) A Bill pending in the Legislative Assembly shall not lapse by reason of the prorogation of the Assembly.

(2) A Bill which is pending in the Legislative Assembly shall lapse on a dissolution of the Assembly.

24. When a Bill has been passed by the Legislative Assembly it shall be presented to the Lieutenant Governor and he shall declare either that he assents to the Bill or that he withholds assent therefrom or that he reserves the Bill for the consideration of the President:

Assent to Bills.

Provided that the Lieutenant Governor may, as soon as possible after the presentation of the Bill for his assent, return the Bill if it is not a Money Bill together with a message requesting that the Assembly will reconsider the Bill or any specified provisions thereof, and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message and, when a Bill is so returned, the Assembly will reconsider the Bill accordingly, and if the Bill is passed again with or without amendment and presented to the Lieutenant Governor for assent, he shall declare either that he assents to the Bill or that he reserves the Bill for the consideration of the President:

Provided further that the Lieutenant Governor shall not assent to, but shall reserve for the consideration of the President, any Bill which,—

(a) in the opinion of the Lieutenant Governor would, if it became law, so derogate from the powers of the High Court as to endanger the position which that Court is, by the Constitution, designed to fill; or

(b) the President may, by order, direct to be reserved for his consideration; or

(c) relates to matter referred to in sub-section (5) of section 7 or section 19 or section 34 or sub-section (3) of section 43.

Explanation.—For the purposes of this section and section 25, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the matters specified in sub-section (1) of section 22 or any matter incidental to any of those matters and, in either case, there is endorsed thereon the certificate of the Speaker of the Legislative Assembly signed by him that it is a Money Bill.

25. When a Bill is reserved by the Lieutenant Governor for the consideration of the President, the President shall declare either that he assents to the Bill or that he withholds assent therefrom:

Bills reserved for consideration.

Provided that where the Bill is not a Money Bill, the President may direct the Lieutenant Governor to return the Bill to the Legislative Assembly together with such a message as is mentioned in the first proviso to section 24 and, when a Bill is so returned, the Assembly shall reconsider it accordingly within a period of six months from the date of receipt of such message and, if it is again passed by the Assembly with or without amendment it shall be presented again to the President for his consideration.

26. No Act of the Legislative Assembly, and no provision in any such Act, shall be invalid by reason only that some previous sanction or recommendation required by this Act was not given, if assent to that Act was given by the Lieutenant Governor or, one being reserved by the Lieutenant Governor for the consideration of the President, by the President.

Requirements as to sanction, etc.

27. (1) The Lieutenant Governor shall in respect of every financial year cause to be laid before the Legislative Assembly, with the previous sanction of the President, a statement of the estimated receipts and expenditure of the Union territory for the year, in this part referred to as the "annual financial statement".

Annual financial statement.

(2) The estimates of expenditure embodied in the annual financial statement shall show separately—

(a) the sums required to meet expenditure described by this Act as expenditure charged upon the Consolidated Fund of the Union territory; and

(b) the sums required to meet other expenditure proposed to be made from the Consolidated Fund of the Union territory and shall distinguish expenditure on revenue account from other expenditure.

(3) Notwithstanding anything contained in any law for the time being in force, the following expenditure shall be expenditure charged on the Consolidated Fund of the Union territory:—

(a) the emoluments and allowances of the Lieutenant Governor and other expenditure relating to his office as determined by the President by general or special order;

(b) the charges payable in respect of loans advanced to the Union territory from the Consolidated Fund of India including interest, sinking fund charges and redemption charges and other expenditure connected therewith;

(c) the salaries and allowances of the Speaker and the Deputy Speaker of the Legislative Assembly;

(d) any sums required to satisfy any judgement, decree or award of any court or arbitrator or tribunal;

(e) any other expenditure declared by the Constitution or by law made by Parliament or by the Legislative Assembly to be so charged.

Procedure in
Legislative
Assembly with
respect to
estimates.

28. (1) So much of the estimates as relates to expenditure charged upon the Consolidated Fund of the Union territory shall not be submitted to the vote of the Legislative Assembly but nothing in this sub-section shall be construed as preventing the discussion in the Legislative Assembly of any of those estimates.

(2) So much of the said estimates as relates to other expenditure shall be submitted in the form of demands for grants to the Legislative Assembly, and the Legislative Assembly shall have the power to assent or to refuse to assent, to any demand, or to assent to any demand subject to a reduction of the amount specified therein.

(3) No demand for a grant shall be made except on the recommendation of the Lieutenant Governor.

Appropriation
Bills.

29. (1) As soon as may be after the grants under section 28 have been made by the Legislative Assembly, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of the Union territory of all moneys required to meet—

(a) the grants so made by the Assembly; and

(b) the expenditure charged on the Consolidated Fund of the Union territory but not exceeding in any case the amount shown in the statement previously laid before the Assembly.

(2) No amendment shall be proposed to any such Bill in the Legislative Assembly which will have the effect of varying the amount or altering the destination of any grant made or of varying the amount of any expenditure charged on the Consolidated Fund of the Union territory and the decision of the person presiding as to whether an amendment is inadmissible under this sub-section shall be final.

(3) Subject to the other provisions of this Act, no money shall be withdrawn from the Consolidated Fund of the Union territory except under appropriation made by law passed in accordance with provisions of this section.

Supplemen-
tary, additional
or excess
grants.

30. (1) The Lieutenant Governor shall,—

(a) if the amount authorised by any law made in accordance with provisions of section 29 to be expended for a particular service for the current financial year is found to be insufficient for the purposes of that year or when a need has arisen during the current financial year for supplementary or additional expenditure upon some new service not contemplated in the annual financial statement for that year, or

(b) if any money has been spent on any service during a financial year in excess of the amount granted for that service and for that year, cause to be laid before the Legislative Assembly, with the previous sanction of the President, another Statement showing the estimated amount of that expenditure or cause to be presented to the Legislative Assembly with such previous sanction a demand for such excess, as the case may be.

(2) The provisions of sections 27, 28 and 29 shall have effect in relation to any such statement and expenditure or demand and also to any law to be made authorising the appropriation of money out of the Consolidated Fund of the Union territory to meet such expenditure or the grant in respect of such demand as they have effect in relation to the annual financial statement and the expenditure mentioned therein or to a demand for a grant and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of the Union territory to meet such expenditure or grant.

31. (1) Notwithstanding anything in the foregoing provisions of this Part, the Legislative Assembly shall have power to make any grant in advance in respect of the estimated expenditure for a part of any financial year pending the completion of the procedure prescribed in section 28 for the voting of such grant and passing of the law in accordance with the provisions of section 29 in relation to that expenditure and the Legislative Assembly shall have power to authorise by law the withdrawal of moneys from the Consolidated Fund of the Union territory for the purposes for which the said grant is made.

Votes on
account.

(2) The provisions of sections 28 and 29 shall have effect in relation to the making of any grant under sub-section (1) or to any law to be made under that sub-section as they have effect in relation to the making of a grant with regard to any expenditure mentioned in the annual financial statement and the law to be made for the authorisation of appropriation of moneys, out of the Consolidated Fund of the Union territory to meet such expenditure.

32. Notwithstanding anything in the foregoing provisions of this Part, the Lieutenant Governor may authorise such expenditure from the Consolidated Fund of the Union territory as he deems necessary for a period of not more than six months beginning from the date of the constitution of the Consolidated Fund of the Union territory, pending the sanction of such expenditure by the Legislative Assembly.

Authorisation
of expenditure
pending its
sanction by
Legislative
Assembly.

33. (1) The Legislative Assembly may make rules regulating, subject to the provisions of this Act, its procedure and the conduct of its business:

Rules of
Procedure.

Provided that the Lieutenant Governor shall, after consultation with the Speaker of the Legislative Assembly and with the approval of the President make rules

(a) for securing the timely completion of financial business;

(b) for regulating the procedure of, and the conduct of business in, the Legislative Assembly in relation to any financial matter or to any Bill for the appropriation of moneys out of the Consolidated Fund of the Union territory;

(c) for prohibiting the discussion of, or the asking of questions on, any matters which affects the discharge of the functions of the Lieutenant Governor in so far as he is required by or under this Act or any law to act in his discretion.

(2) Until rules are made under sub-section (1), the rules of procedure and standing orders with respect to the Legislative Assembly of the State of Uttar Pradesh in force immediately before the commencement of this Act shall have effect in relation to the Legislative Assembly subject to such modifications and adaptations as may be made therein by the Lieutenant Governor.

34. (1) The Legislative Assembly may by law adopt any one or more of the languages in use in the Union territory or Hindi as the official language or languages to be used for all or any of the official purposes of the Union territory:

Official lan-
guage or lan-
guages of the
Union Territory
and language
or languages to
be used in Leg-
islative Assem-
bly.

Provided that the President may by order direct—

(i) that the official language of the Union shall be adopted for such of the official purposes of the Union territory as may be specified in the order.

(ii) that any other language shall also be adopted throughout the Union territory or such part thereof for such of the official purposes of the Union territory as may be specified in the order, if the President is satisfied that a substantial proportion of the population of the Union territory desires the use of that other language for all or any of such purposes.

(2) The business in the Legislative Assembly shall be transacted in the official language or languages of the Union territory or in Hindi or in English:

Provided that the Speaker of the Legislative Assembly or the person acting as such, as the case may be, may permit any member who cannot adequately express himself in any of the languages aforesaid, to address the Assembly in his mother-tongue.

Languages to be used for Bills, Acts, etc.

35. Notwithstanding anything contained in section 34, until Parliament by law otherwise provides, the authoritative texts—

(a) of all Bills to be introduced or amendments thereto to be moved in the Legislative Assembly;

(b) of all Acts passed by the Legislative Assembly; and

(c) of all orders, rules, regulations and bye-laws issued under any law made by the Legislative Assembly shall be in English language:

Provided that where the Legislative Assembly has prescribed any language other than the English language for use in Bills introduced in, or Acts passed by, the Legislative Assembly or in any order, rule, regulation or bye-law issued under any law made by the Legislative Assembly, a translation of the same in the English language published under the authority of the Lieutenant Governor in the official Gazette shall be deemed to be the authoritative text thereof in the English language.

Restrictions on discussion in the Legislative Assembly.

36. No discussion shall take place in the Legislative Assembly with respect to the conduct of any Judge of the Supreme Court or of a High Court in the discharge of his duties.

Courts not to inquire into proceedings of Legislative Assembly.

37. (1) The validity of any proceedings in the Legislative Assembly shall not be called in question on the ground of any alleged irregularity of procedure.

(2) No officer or member of the Legislative Assembly in whom powers are vested by or under this Act for regulating procedure or the conduct of business, or for maintaining order in the Legislative Assembly shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers.

PART III

DELIMITATION OF CONSTITUENCIES

Election Commission to delimit constituencies.

38. (1) The Election Commission shall, in the manner herein provided, distribute the seats assigned to the Legislative Assembly under section 3 to single-member territorial constituencies and delimit them having regard to the following provisions, namely:—

(a) all constituencies shall, as far as practicable, be delimited in such manner that the ratio between the population of each of such constituencies and the total population of the Union territory is the same; and

(b) constituencies in which seats are reserved for the Scheduled Castes or Scheduled Tribes shall, as far as possible, be located in areas where the proportion of the population to the total population is comparatively large.

(2) The Election Commission shall—

(a) publish its proposals for the delimitation of constituencies in the official Gazette and also in such other manner as the Commission may consider fit together

with a notice inviting objections and suggestions in relation to the proposals and specifying a date on or after which their proposals will be further considered by it;

(b) consider all objections and suggestions which may have been received by it before the date so specified;

(c) after considering all objections and suggestions which may have been received by it before the date so specified, finalise delimitation of constituencies and cause such order or orders to be published in the official Gazette; and upon such publication, the order or orders shall have the full force of law and shall not be called in question in any court.

39. The Election Commission may, from time to time, by notification in the official Gazette,—

(a) correct any printing mistakes in any order made under section 38 or any error arising therein from inadvertent slip or omission; and

(b) where the boundaries or name of any territorial division mentioned in any such order are or is altered, make such amendments as appear to it to be necessary or expedient for bringing such order up to date.

Power of Election Commission to maintain delimitation orders up to date.

40. (1) For the purpose of constituting the Legislative Assembly, a general election will be held as soon as may be after the delimitation of all the assembly constituencies under section 38.

Election to the Legislative Assembly.

(2) For the purposes of sub-section (1), the Lieutenant Governor shall, by one or more notifications published in the Official Gazette, call upon all the said assembly constituencies to elect members in accordance with the provisions of the Representation of the People Act, 1951 and of the rules and orders made or issued thereunder as applicable under sub-section (3).

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(3) The Representation of People Act, 1950, the Representation of the People Act, 1951 the rules and orders made or issued under the said Acts and all other laws for the time being in force relating to the elections shall apply with necessary modifications (including modifications for construing references therein to a State, State Government and Governor as including references to the Union territory, Government of the Union territory and Lieutenant Governor, respectively) to, and in relation to, the general election referred to in sub-section (1).

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PART IV

CERTAIN PROVISIONS RELATING TO LIEUTENANT GOVERNOR AND MINISTERS

41. (1) The Lieutenant Governor shall act in his discretion in a matter—

(i) which falls outside the purview of the powers conferred on the Legislative Assembly but in respect of which powers or functions are entrusted or delegated to him by the President, or

(ii) in which he is required by or under any law to act in his discretion or to exercise any judicial or quasi-judicial functions.

Matters in which Lieutenant Governor to act in his discretion.

(2) If any question arises as to whether any matter is or is not a matter as respects which the Lieutenant Governor is by or under any law required to act in his discretion, the decision of the Lieutenant thereon shall be final.

(3) If any question arises as to whether any matter is or is not a matter as respects which the Lieutenant Governor is required by any law to exercise any judicial or quasi-judicial functions, the decision of the Lieutenant Governor thereon shall be final.

42. The question whether any, and if so what, advice was tendered by Ministers to the Lieutenant Governor shall not be inquired into in any court.

Advice by Ministers.

Other provisions as to Ministers.

43. (1) Before a Minister enters upon his office, the Lieutenant Governor shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Schedule.

(2) A Minister who, for any period of six months, is not a member of the Legislative Assembly, at the expiration of that period, shall cease to be a Minister.

(3) The salaries and allowances of Ministers shall be such as the Legislative Assembly may from time to time by law determine and until the Legislative Assembly so determines, shall be determined by the Lieutenant Governor with the approval of the President.

Conduct of business.

44. (1) The President shall make rules—

(a) for the allocation of business to the Ministers in so far as it is business with respect to which the Lieutenant Governor is required to act on the aid and advice of his Council of Ministers; and

(b) for the more convenient transaction of business the Ministers, including the procedure to be adopted in the case of a difference of opinion between the Lieutenant Governor and the Council of Ministers or a Minister.

(2) Save as otherwise provided in this Act, all executive actions of the Lieutenant Governor whether taken on the advice of his Ministers or otherwise shall be expressed to be taken in the name of the Lieutenant Governor.

(3) Orders and other instruments made and executed in the name of the Lieutenant Governor shall be authenticated in such manner as may be specified in rules to be made by the Lieutenant Governor and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Lieutenant Governor.

Duties of Chief Minister as respects the furnishing of information, etc. to the Lieutenant Governor.

45. It shall be the duty of the Chief Minister—

(a) to communicate to the Lieutenant Governor all decisions of Council of Ministers relating to the administration of the affairs of the Union territory and proposals for legislation;

(b) to furnish such information relating to the administration of the affairs of the Union territory and proposals for legislation as Lieutenant Governor may call for, and

(c) if the Lieutenant Governor so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council.

PART V

MISCELLANEOUS AND TRANSITIONAL PROVISIONS

Consolidated Fund of the Union territory.

46. (1) As from such date as the Central Government may, by notification in the official Gazette, appoint in this behalf, all revenues received in the Union territory by the Government of India or the Lieutenant Governor in relation to any matter with respect to which the Legislative Assembly has power to make laws, and all grants made and all loans advanced to the Union territory from the Consolidated Fund of India and all moneys received by the Union territory in repayment of loans shall form one Consolidated Fund to be entitled "the Consolidated Fund of the Union territory of Lakshadweep" (referred to in this Act as the Consolidated Fund of the Union territory).

(2) No moneys out of the Consolidated Fund of the Union territory shall be appropriated except in accordance with and for the purposes and in the manner provided in the Act.

(3) The custody of the Consolidated Fund of the Union territory the payment of moneys into such fund, the withdrawal of money therefrom and all other matters connected

with or ancillary to those matters shall be regulated by rules made by the Lieutenant Governor with the approval of the President.

47. (1) There shall be established a Contingency Fund in the nature of an imprest to be entitled "the Contingency Fund of the Union territory of Lakshadweep" into which shall be paid from and out of the Consolidated Fund of the Union territory such sums as may, from time to time be determined by law made by the Legislative Assembly; and the said Fund shall be held by the Lieutenant Governor to enable advances to be made by him out of such Fund.

Contingency
Fund of the
Union
territory.

(2) No advances shall be made out of the Contingency Fund referred to in sub-section (1) except for the purposes of meeting unforeseen expenditure pending authorisation of such expenditure by the Legislative Assembly under appropriation made by law.

(3) The Lieutenant Governor may make rules regulating all matters connected with or ancillary to the custody of, the payment of moneys into, and the withdrawal of moneys from the aforesaid Contingency Fund.

48. The reports of the Comptroller and Auditor General of India relating to the accounts of the Union territory for any period subsequent to the date referred in sub-section (1) of section 46 shall be submitted to the Lieutenant Governor who shall cause them to be laid before the Legislative Assembly.

Audit Reports.

49. Notwithstanding anything in this Act, the Lieutenant Governor and his Council of Ministers shall be under the general control of, and comply with such particular directions, if any, as may from time to time be given by, the President.

Relation of
Lieutenant
Governor and
his Ministers
to President.

50. (1) Every order made by the President under article 239AB shall expire at the end of one year from the date of issue of the order and the provisions of clauses (2) and (3) of article 356 shall, so far may be, apply to such order as they apply to a proclamation issued under clause (1) of article 356.

Period of order
made under
article 239AB
and approval
thereof by
Parliament.

(2) Notwithstanding anything contained in sub-section (1), the President may extend the duration of the aforesaid order for a further period not exceeding two years from the date of expiry of the order under sub-section (1) subject to the condition that every extension of the said order for any period beyond the expiration of one year shall be approved by resolutions of both Houses of Parliament.

51. Where the Legislative Assembly is dissolved or its functioning as such Assembly remains suspended on account of an order made by the President under article 239AB, it shall be competent for the President to authorise when the House of the People is not in session expenditure from the Consolidated Fund of the Union territory pending the sanction of such expenditure by Parliament.

Authorisation
of expenditure
by President.

52. For the removal of doubts it is hereby declared that—

(a) all contracts in connection with the administration of the Union territory are contracts made in the exercise of the executive power of the Union; and

(b) all suits and proceedings in connection with the administration of the Union territory shall be instituted by or against the Government of India.

Contracts and
suits.

53. (1) If any difficulty arises in relation to the transaction from the provisions of any law repealed by the Act or in giving effect to the provisions of this Act and in particular in relation to the constitution of the Legislative Assembly, the President may by order to anything not inconsistent with the provisions of the Constitution or of this act which appear to him to be necessary or expedient for the purpose of removing the difficulty:

Power of
President to
remove
difficulties.

Provided that no order under the sub-section shall be made after the expiry of three years from the date of constitution of the first Legislative Assembly.

(2) Every order made under sub-section (1) shall be laid before each House of Parliament.

Laying of rules
before Legisla-
tive Assembly.
Amendments
to the
Constitution.

54. Every rule made by the Lieutenant Governor under this Act shall be laid, as soon as it made, before the Legislative Assembly.

Special
provision with
respect to
Lakshadweep.

55. On and from the appointed day—

(a) after article 239 AA, the following article shall be inserted, namely:—

“239 AAA. (1) As from the date of Commencement of the Government of Union territory of Lakshadweep Act, 1998 the administrator of the Union territory of Lakshadweep appointed under article 239 shall be designated as the Lieutenant Governor.

(2) The provisions of articles 239AA and 239AB shall, so far as may be, apply *mutatis mutandis* in relation to the Union territory of Lakshadweep, Lieutenant Governor and the Legislative Assembly, as they apply in relation to the National Capital Territory of Delhi and its Legislature respectively.”;

(b) in article 240, in clause (1), for the existing proviso, the following provisos shall be substituted, namely:—

“Provided that when any body is created under article 239A or 239AAA to function as a Legislature for the Union territory of Pondicherry or Union territory of Lakshadweep, as the case may be, the President shall not make any regulation for the peace, progress and good government of that Union territory with effect from the date appointed for the first meeting of the Legislature:

Provided further that whenever the body functioning as a Legislature for the Union territory of Pondicherry or Lakshadweep, as the case may be, is dissolved or the functioning of that body as such legislature remains suspended on account of any action taken under any such law as is referred to in clause (1) of article 239A or 239AB, as the case may be, the President may, during the period of such dissolution or suspension, make regulations for the peace, progress and good government of that Union Territory.”

(c) In the Fourth Schedule to the Constitution, in the Table,

(a) entries 26 and 27 shall be re-numbered, as entries 27 and 28 respectively, and before entry 27 as so re-numbered, the following entry shall be inserted, namely:—

“26. Lakshadweep.....1”;

(b) for the figures, “233”, the figures “234” shall be substituted.

Amendment of
section 27A of
Act 43 of 1950.

56. In section 27A of the Representation of People Act, 1950, after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) The electoral college for the Union territory of Lakshadweep shall consist of the elected members of the Legislative Assembly constituted for that territory under the Government of Union territory of Lakshadweep Act, 1998.”

THE SCHEDULE

(See sections 4, 12 and 43)

FORMS OF OATH OR AFFIRMATIONS

I

Form of oath or affirmation to be made by a candidate for election to the Legislative Assembly:—

“I, AB, having been nominated as a candidate to fill a seat in the Legislative Assembly, do swear in the name of God, solemnly affirm that I bear true faith and

allegiance to the Constitution of India as by law established and that I will uphold the sovereignty and integrity of India.

II

Form of oath or affirmation to be made by a member of the Legislative Assembly:—

"I, AB, having been elected a member of the Legislative Assembly, do swear in the name of God, solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, and that I will faithfully discharge the duty upon which I am about to enter."

III

Form of oath of office of a member of the Council of Ministers:—

"I, AB, do swear in the name of God, solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by established, that I will uphold the sovereignty and integrity of India, that I will faithfully and conscientiously discharge my duties as a Minister, and that I will do right to all manner of people in accordance with the Constitution and the law without fear or favour, affection or ill-will."

IV

Form of oath of Secrecy for a member of Council of Ministers:—

"I, AB, do swear in the name of God, solemnly affirm that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as a Minister except as may be required for the due discharge of any duties as such Minister."

STATEMENT OF OBJECTS AND REASONS

Even after 52 years of Independence, the Union territory of Lakshadweep has not been provided with a democratic set-up with a Legislative Assembly for the governance of the affairs of the Union territory Administration. All powers are vested in the Lieutenant Governor and the bureaucracy continues to reign supreme. In the absence of Legislative Assembly with devolution of powers, the people of the islands are not enable to have a sense of belonging and involvement in the developmental activities of the islands and do not have a say in the utilisation of the funds provided by the Central Government in proper perspective.

The type of administration provided to the Union territory is not at all befitting to a democratic set-up and devolution of powers. The population of the Union territory has crossed four lakhs mark and the literacy percentage is well over the national average and is steadily heading towards achieving cent percent. literacy as per norms prescribed by the Government of India.

However, despite of all these favourable points the people of the Union territory did not get administrative set-up of their own choice mainly due to unforesighted views of the Central Government. They deserve a political set-up in the same line as Delhi and Pondicherry.

There have been series of demands from the people of the Union territory for providing a Legislative Assembly on the line of the set-up in Delhi and Pondicherry. The people of the island territory are unanimous in this regard. Now, since a three-tier Panchayati Raj system is also in offing in pursuance with the Constitution (Seventy-third Amendment) Act, with the idea of devolution of powers at Panchayat, block and district levels, it is high time that a Legislative Assembly was provided to set the tone and direction for the governance of the Union territory Administration on democratic norms.

The Bill seeks to achieve the aforesaid objectives.

NEW DELHI;
October 25, 1999.

BASUDEB ACHARIA.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for setting up of a Legislative Assembly for the Union territory of Lakshadweep. Clauses 7(5), 19 and 43(3) relate to payment of salaries and allowances to the Speaker, the Deputy Speaker, Members of the Legislative Assembly and the Ministers. The expenditure on such salaries and allowances and other expenditure of incidental nature such as on the additional staff in the Legislative Assembly and Council of Ministers will be met from the Consolidated Fund of the Union territory of Lakshadweep.

Clause 38 provides for the delimitation of thirty single member territorial constituencies for the proposed Assembly of the Union territory of Lakshadweep. Clause 55 provides that Union territory of Lakshadweep will be represented by one member in the Council of States. For this purpose, a non-recurring expenditure of about rupees fifteen lakhs is likely to be incurred. This expenditure will be met from the Consolidated Fund of India.

The Bill does not involve any other expenditure whether of a recurring or non-recurring nature.

BILL NO. 109 OF 1999

A Bill further to amend the Contract Labour (Regulation and Abolition) Act, 1970.

BE it enacted by Parliament in the Fiftieth Year of the Republic of India as follows:—

1. This Act may be called the Contract Labour (Regulation and Abolition) (Amendment) Act, 1999. Short title.

37 of 1970.

2. In section 1 of the Contract Labour (Regulation and Abolition) Act, 1970 (hereinafter referred to as the principal Act), in sub-section (4),— Amendment of section 1.

(i) in clause (a), for the word "twenty", the word "ten" shall be substituted;

(ii) in clause (b), for the word "twenty", the word "ten" shall be substituted;

and

(iii) in the proviso, for the word "twenty", the word "ten" shall be substituted.

Substitution of new section for section 9.

3. For section 9 of the principal Act, the following section shall be substituted, namely:—

Principal employer to be deemed to be the employer in case of non-registration.

“9. Notwithstanding anything contained in section 7 or section 8, if any principal employer employs any contract labour,—

(i) without making an application for registration of his establishment in accordance with section 7;

(ii) even after the registration of his establishment has been revoked under section 8; and

(iii) without the contractor or contractors, engaged by him, as the case may be, obtaining licence under section 12,

he shall be deemed to have employed directly the workmen employed by the concerned contractor or contractors, as the case may be.”.

Amendment of section 20.

4. In section 20 of the principal Act, in sub-section (1), for the words and figures “or section 19”, the words, figures and letters “section 19, section 21A, section 21B or section 21C” shall be substituted.

Insertion of new sections 21A to 21C.

5. After section 21 of the principal Act, the following sections shall be inserted, namely:—

Hours of work and weekly rest.

“21A. (1) No workman shall be required to work more than nine hours a day or forty eight hours a week, as the case may be.

(2) No workman shall be required to work more than six days in a week.

Overtime allowance.

21B. A workman who is required to work beyond nine hours a day or forty eight hours a week, as the case may be, shall be paid overtime allowances at double the ordinary rates of wages payable to him.

Leave.

21C. Every workman to which this Act applies shall be entitled to,—

(i) annual leave with full pay at the rate of one day for every twenty working days to be accumulated to a maximum of forty-five days in a year and such leave shall be credited twice on the 30th June and 31st December each year;

(ii) casual leave with full pay at the rate of ten days a year;

(iii) sick leave at half the average pay for fourteen days in a year to be accumulated to a maximum of forty-two days and shall be credited twice on the 30th June and 31st December each year; and

(iv) festival holidays for twelve days in a year to be selected in consultation with the workers and in keeping in view the principal festivals in the area concerned.”.

Amendment of section 22.

6. In section 22 of the principal Act,—

(i) in sub-section (1), for the words “for a term which may extend to three months, or with fine which may extend to five hundred rupees”, the words “for a term which may extend to six months, or with fine which may extend to ten thousand rupees” shall be substituted; and

(ii) in sub-section (2), for the words “for a term which may extend to three months, or with fine which may extend to five hundred rupees”, the words “for a term which may extend to six months, or with fine which may extend to ten thousand rupees” shall be substituted.

Amendment of section 23.

7. In section 23 of the principal Act, for the words “a term which may extend to three months, or with fine which may extend to one thousand rupees”, the words “a term which may extend to six months, or with fine which may extend to twenty thousand rupees” shall be substituted.

8. In section 24 of the principal Act, for the words "a term which may extend to three months, or with fine which may extend to one thousand rupees", the words "a term which may extend to six months or with fine which may extend to twenty thousand rupees" shall be substituted.

Amendment of
section 24.

9. In section 27 of the principal Act, for the words "three months", the words "six months" and in the proviso thereof, for the words "six months", the words "one year" shall be substituted.

Amendment of
section 27.

10. In section 29 of the principal Act, after sub-section (2), the following sub-section shall be added, namely:—

Amendment of
section 29.

"(3) The principal employer shall cause to submit such registers and records as prescribed in sub-sections (1) and (2) to the appropriate authorities, within a time limit, as may be prescribed."

11. In section 35 of the principal Act, in sub-section (1), for clause (m), the following clause shall be substituted, namely:—

Amendment of
section 35.

"(m) the form of registers and records to be maintained by principal employers and contractors and their submission to the appropriate authority."

STATEMENT OF OBJECTS AND REASONS

The Contract labourers are the most exploited lot in the country. They are an unorganised section who work at the mercy of the employers. They do not have any protection from the labour welfare authorities as they are thinly spread over almost the entire working sectors. In the absence of an effective law enforcing agency, the contractors have a field day. The present Act has some glaring lacunae which give contractors scope to exploit them. In order to plug some of those lacunae, it is imperative to amend the Contract Labour (Regulation and Abolition) Act, 1970.

Hence this Bill.

NEW DELHI;
October 25, 1999.

BASUDEB ACHARIA.

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that the Act will apply to every establishment in which ten workmen are employed instead of twenty as at present. As such more establishments will come under the purview of this Act and some expenditure will be involved in providing canteen, rest-room, etc. facilities to workers. Clause 5 provides for payment of overtime allowances. It also provides for annual leave, casual leave with full pay and sick leave at half the average pay to workmen. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. An annual recurring expenditure of about rupees twenty lakh is likely to be incurred from the Consolidated Fund of India.

A non-recurring expenditure of about rupees ten lakh is also likely to be involved.

BILL NO. 77 OF 1999

A Bill further to amend the Constitution (Scheduled Tribes) Order, 1950.

BE it enacted by Parliament in the Fiftieth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Scheduled Tribes) Order (Amendment) Act, 1999. Short title.

2. In the Schedule to the Constitution (Scheduled Tribes) Order, 1950, in Part XVI- Amendment of
West Bengal, after entry 38, the following entry shall be added, namely:— the Schedule.

"39. Deswalli Majhees".

STATEMENT OF OBJECTS AND REASONS

The tribe Deswalli Majhees are Santhal descendants. The tribe was recognised as such in the year 1921. In the year 1941 Deswalli Majhees were declared as 'Tribes' and after that in the year 1952 and 1955 they were accepted as 'Santhal Descendants' and thus got benefits and legitimate dues guaranteed by the Government of India. Things changed from the year 1961 onwards. The tribes were denied all the facilities meant for them and till today they have been suffering in many ways.

Therefore, to give them justice and in view of their economic, educational and social backwardness, it is proposed in the Bill that the Deswalli Majhees tribe be included in the list of Scheduled Tribes for the State of West Bengal.

The Bill seeks to achieve the above objective.

NEW DELHI;
October 25, 1999.

BASUDEB ACHARIA.

BILL NO. 78 OF 1999

A Bill to provide for the establishment of a Technology Bank to assist professionals engaged in research work in various disciplines.

BE it enacted by Parliament in the Fiftieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Technology Bank of India Act, 1999.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

(a) 'Bank' means the Technology Bank of India established under section 3;

(b) 'prescribed' means prescribed by rules made under the Act;

(c) 'professional' means a researcher or a scientist engaged in research work in space or engineering or medicine including all systems of Indian medicine or

Short title,
extent and
commence-
ment.

Definitions.

energy, agriculture, chemicals, defence, environment, food processing, non-conventional energy sources, petroleum and allied products, science and technology including bio-technology, electronics and ocean development.

Establishment
of Technology
Bank of India.

3. (1) The Central Government shall establish a bank to be known as "Technology Bank of India" with its headquarters at New Delhi.

(2) The Central Government shall establish a branch of the Bank in every State capital and Union territory.

(3) The Bank shall consist of a Chairman and four other members to be appointed by the Central Government.

(4) Every branch of the Bank shall consist of a General Manager and such other officers and staff as may be required.

(5) The terms and conditions of service and appointment, salaries and allowances of Chairman, members and employees of the Bank shall be such as may be prescribed.

Object of the
Bank.

4. The main object of the Bank shall be to financially assist the professionals in their research work.

Application for
loan.

5. (1) Every professional wishing to avail of financial assistance from the Bank shall apply to the concerned branch of Bank.

(2) While applying for loan the professional shall furnish all details about his research, experience, infrastructure available with him and required amount of loan and the period for which it is required.

Branch to
forward
application to
head office.

6. The concerned branch shall forward the application to the Head Office with its recommendations within a period of fifteen days from the date of receipt of the application.

Head Office to
decide on
sanction of loan.

7. (1) The Head Office shall consider the application taking into account the recommendations of the concerned branch and arrive at a decision within a period of fifteen days from the date of receipt of such application.

(2) The Head Office shall have the power either to increase or decrease the amount of loan applied for or the period for which it is sought and its decision thereon shall be final.

Loan.

8. (1) Upon the decision of the Head Office to sanction the loan, the loan amount shall be given to the professional at once.

(2) The loan amount so sanctioned shall be interest free.

(3) The loan amount shall be repayable within such period as may be determined in the terms and conditions governing the loan.

(4) The loan shall be repayable by the professional after his research work has been completed or after a period of five years from the date of sanction of loan, whichever is earlier.

Professional to
inform
Government
about his
research.

9. Every professional who has been sanctioned a loan by the Bank shall, upon completion of his research work inform the Central Government or the State Government, as the case may be, and the Bank about his research work.

Professional not
to leave the
country during
research.

10. (1) Every professional who applies for loan shall give an undertaking to the effect that he shall not leave the country during the period of his research:

Provided that the Central Government may, in special circumstances to be recorded

in writing, allow a professional to go abroad to acquaint himself with the new techniques which will promote or help in his research work.

(2) No professional who has been sanctioned a loan by the Bank shall leave the country until he has submitted his research work to the Central Government and repaid the loan.

11. The Central Government may, after considering the research work submitted by a professional, give award to him and provide him with suitable employment in an office or organisation under the Central Government.

Employment to Professional.

12. The Central Government shall provide housing and stipend at such rates, as it may determine, to a professional during his research for a period of five years or till he completes his research, whichever is earlier.

Assistance to professionals.

13. If any professional violates the provisions of section 10, deportation proceedings shall be proceeded against him at once and he shall be punished with imprisonment for a period of five years and a fine of rupees five lakh and he shall be required to repay the loan at once.

Punishment.

14. The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

Due to lack of facilities and financial assistance, our young researchers and scientists are not able to do any research work or engage themselves in any project. They are lured by multinationals and foreign countries and as a result our country is not able to utilise their talent.

Therefore, it is proposed to encourage our researchers and scientists by giving them all sorts of assistance to do their research work. It is accordingly proposed that the researchers shall be given loan by the bank for their research work and during that period they will be provided with housing and stipend facilities. However, the researchers will submit their papers or project to the Government after the completion of their work so that the country can fully benefit from their work.

The Bill serves two purposes, on the one hand it helps our researchers to do their work peacefully and on the other it helps us to utilise their talent and benefit from their research work.

NEW DELHI;
October 25, 1999.

KIRIT SOMAIYA.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of a Technology Bank of India. It further provides for the establishment of offices and branches of the bank in every State Capital and Union Territory. The bank shall consist of a Chairman, four other members, General Manager and other employees and also provides for salaries and allowances to them. Clause 11 provides that the Central Government shall give award and suitable employment to those who have completed their research work. Clause 12 provides for housing and stipend to researchers for a period of five years.

The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve an annual recurring expenditure of rupees five hundred crore. A non-recurring expenditure of about rupees fifty crore is also likely to be involved.

BILL NO. 76 OF 1999

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fiftieth Year of the Republic of India as follows:—

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| 1. This Act may be called the Constitution (Amendment) Act, 1999. | Short title. |
| 2. In article 58 of the Constitution, in clause (1), in sub-clause (a), for the word "citizen", the words "natural born citizen" shall be substituted. | Amendment of article 58. |
| 3. In article 66 of the Constitution, in clause (3), in sub-clause (a), for the word "citizen", the words "natural born citizen" shall be substituted. | Amendment of article 66. |
| 4. In article 75 of the Constitution, in clause (1), the following proviso shall be added at the end, namely:—

"Provided that no person shall be eligible to hold the office of the Prime Minister unless he is a natural born citizen of India." | Amendment of article 75. |

STATEMENT OF OBJECTS AND REASONS

The ongoing process of globalisation of the country's economy has enabled the global multinational corporations to establish a powerful presence in India. Some of these corporations have annual turnover which is almost one half of India's Gross National Product (GNP). Given the enormous role that money has come to play in the political life of the country, there will be temptations for these corporations to use the power of their money to influence political developments in India.

At the same time foreign print media has begun to make inroads into our country. Along with western electronic media, it has launched a cultural offensive with a view to influence the thinking of Indian people.

These developments are fraught with grave consequences for India's sovereignty. Sooner or later, these foreign economic and cultural interests can be expected to make efforts to influence India's decision makers to formulate policies which may not be in national interest.

India's citizenship laws enable foreign born persons to acquire Indian citizenship. The Constitution of India enables any Indian citizen to be the President, the Vice President and the Prime Minister, unless he is otherwise debarred. In the changing global scenario, it will not be beyond the capacity of foreign interests to manipulate a situation to project a person who is not a natural born citizen of the country and whose patriotism may be in doubt.

The posts of the President, the Vice President and the Prime Minister are not merely sensitive posts. They hold in their hands decision-making powers which can take the country to wars or make compromises on the nation's security. Any person whose patriotism is untested should not be trusted with the fate of one sixth of humanity. That is why, in the United States for instance, only a natural born citizen is eligible to be elected as the President.

This Bill seeks to amend the Constitution to make only natural born citizens of India eligible to be the President, the Vice President and the Prime Minister.

Hence this Bill.

NEW DELHI;
October 25, 1999.

KIRIT SOMAIYA.

BILL NO. 107 OF 1999

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fiftieth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1999.

Short title.

2. In article 74 of the Constitution, in clause (1), before the existing proviso, the following proviso shall be inserted, namely:—

Amendment
of article 74.

“Provided that the Council of Ministers shall consist of not more than nine per cent. of the total membership of the House of the People and three per cent. of the total membership of the Council of States.”.

3. In article 163 of the Constitution, in clause (1), the following proviso shall be inserted, namely:—

Amendment
of article 163.

“Provided that the total number of Council of Ministers shall not,—

(i) exceed fifteen, with respect to a State where the total membership of the Legislative Assembly of that State is not more than one hundred and sixty; and

(ii) exceed ten per cent. of the total membership of the Legislative Assembly of a State having more than one hundred and sixty members.”.

STATEMENT OF OBJECTS AND REASONS

There is no limit in the size of Council of Ministers in the Centre and in the States. There is a tendency to have a very big size of Council of Ministers. This has become a financial burden on the exchequer. It is, therefore, necessary to stop this trend and to limit the number of Ministers in the Council of Ministers in the States as well as in the Centre.

NEW DELHI;
October 28, 1999.

UTTAMRAO DEORAO PATIL.

BILL No. 92 OF 1999

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fiftieth Year of the Republic of India as follows:—

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|--|-----------------------------|
| 1. This Act may be called the Constitution (Amendment) Act, 1999. | Short title. |
| 2. In the Preamble to the Constitution and wherever it occurs in the Constitution, for the word "India", the word "Bharat" shall be substituted. | Amendment of Preamble, etc. |
| 3. In article 1 of the Constitution, for the words "India, that is Bharat", the word "Bharat" shall be substituted. | Amendment of article 1. |

STATEMENT OF OBJECTS AND REASONS

Under Article 1 of the Constitution, the name of our country is "India, that is Bharat, shall be a Union of States".

It will be appropriate if the name of our country is known as "Bharat" instead of "India, that is Bharat".

It is to be noted that the two Houses of Parliament in India were formerly known as "House of the People" and "Council of States". The nomenclatures were changed to "Lok Sabha" and "Rajya Sabha" which have since become popular in our country as also abroad.

The Bill accordingly seeks to amend the Constitution with a view to changing the nomenclature of our country.

Hence this Bill.

NEW DELHI;
October 29, 1999.

HARPAL SINGH SATHI.